

TITLE 47
MINES AND MINING

CHAPTER 7
MINERAL RIGHTS IN STATE LANDS

47-701. RESERVATION OF MINERAL DEPOSITS TO STATE -- TERMS DEFINED. (1) The terms "mineral lands," "mineral," "mineral deposits," "deposit," and "mineral right," as used in this chapter, and amendments thereto shall be construed to mean and include all coal, oil, oil shale, gas, phosphate, sodium, asbestos, gold, silver, lead, zinc, copper, antimony, geothermal resources, salable minerals, and all other mineral lands, minerals or deposits of minerals of whatsoever kind or character.

(2) Such deposits in lands belonging to the state are hereby reserved to the state and are reserved from sale except upon a rental and royalty basis and except when the surface estate is identified by the state board of land commissioners as having the potential highest and best use for development purposes, such as residential, commercial or industrial purposes. Except for the aforementioned purposes, the purchaser of all other state land shall acquire no right, title or interest in or to such deposits, and the right of such purchaser shall be subject to the reservation of all mineral deposits and to the conditions and limitations prescribed by law providing for the state and persons authorized by it to prospect for, mine, and remove such deposits and to occupy and use so much of the surface of said land as may be required for all purposes reasonably incident to the mining and removal of such deposits therefrom.

(3) An exchange of state land consummated by the board under authority of section [58-138](#), Idaho Code, shall not be considered a sale of state lands. The transfers of mineral deposits heretofore made in such exchanges are hereby approved.

[(47-701) 1923, ch. 96, sec. 1, p. 115; am. 1925, ch. 220, sec. 1, p. 404; I.C.A., sec. 46-701; am. 1981, ch. 325, sec. 1, p. 676; am. 1986, ch. 81, sec. 1, p. 239; am. 1992, ch. 226, sec. 1, p. 676; am. 2004, ch. 13, sec. 1, p. 10.]

47-701A. DEFINITION. As used in section [47-701](#), Idaho Code, the term "salable minerals," means a mineral substance that can be taken from the earth and that has a value in and of itself separate and apart from the earth and includes, but is not limited to, building stone, cinders, pumice, scoria, clay, diatomaceous earth, sand, gravel, quartz, limestone and marble.

[47-701A, added 1986, ch. 81, sec. 2, p. 239.]

47-702. RIGHT OF EXPLORATION AND WITHDRAWAL. (1) All lands belonging to the state of Idaho in which the mineral deposits, excepting oil and gas and geothermal resources, are owned by the state, and which have not been located, leased, or withdrawn in accordance with the terms of this chapter, are hereby declared to be free and open to casual exploration.

(2) The board of land commissioners is authorized in its discretion to withdraw from entry and exploration specifically described tracts of state lands under its control and jurisdiction, or state lands under the control and jurisdiction of other state agencies. Within thirty (30) days of the decision for such withdrawal the board of land commissioners shall publish

a notice in a newspaper of general circulation in the county or counties in which such lands are situated providing the legal description of the lands withdrawn. Concerned citizens shall have thirty (30) days from the date of publication to request an appeal of such withdrawal to the board of land commissioners.

[(47-702) 1923, ch. 96, sec. 2, p. 115; I.C.A., sec. 46-702; am. 1981, ch. 325, sec. 2, p. 677; am. 1986, ch. 131, sec. 1, p. 338.]

47-703. EXPLORATION LOCATIONS ON STATE LANDS. (1) Location for exploration purposes may be made upon lands belonging to the state of Idaho in which the mineral rights are reserved or belong to the state, including the beds of all navigable rivers in the state of Idaho and all portions of said navigable rivers between the natural or ordinary high water marks, providing that no exploration location may be made on any lands for which a mineral lease application has been made and is pending as provided in section [47-704](#), Idaho Code; providing further, that no exploration location may be made for salable minerals as that term is used in section [47-701](#), Idaho Code.

(2) Such locations when made upon surveyed land shall conform to legal subdivisions. When made upon the beds of navigable rivers, they shall not exceed one-half (1/2) river mile. When made on surveyed land, they shall not exceed twenty (20) acres except that when made upon surveyed land designated as a lot, they may equal one-half (1/2) of said lot. Descriptions of locations made on the beds of navigable rivers, the boundaries of which shall have been meandered, shall be described as near as may be with the lotting of the fractional subdivisions bordering upon the navigable rivers, and the description of the location shall be so accurately drawn and tied to the government corners that the ground may be accurately located and so described that the location may be accurately platted upon the books of the state board of land commissioners.

(3) The discoverer of a mineral deposit or a person desiring to prospect for mineral shall immediately post conspicuously on each twenty (20) acre tract or fraction thereof, or each one-half (1/2) river mile that he desires to locate, an exploration certificate of location declaring that he has made such discovery or declaring that he desires to prospect for mineral, together with the date of such discovery or declaration. Said certificate shall be in such form as the board may prescribe. The locator shall be allowed twenty (20) days from such date to file an exact copy of exploration certificate of location with the state board of land commissioners and pay the appropriate fees. Said certificate shall designate the legal subdivisions located and shall be recorded in the office of said board as of the date of filing, and an entry of such location shall be made upon the plat and tract books.

(4) The locator shall be entitled to hold said location for a period of two (2) years from the first of the month following the date of recording and by performing one hundred dollars (\$100) worth of work during each year for each location.

(5) Work within the meaning of this chapter shall consist of tunnels, shafts, or other mining excavations or development, including drilling by conventional methods and pits or shafts sunk to determine the value of the gravels. Work shall include roads, trails, buildings, machinery, or other surface improvement. All such work may be done at one (1) place on the location or at as many places as the locator may desire, and in case two (2) or more locations are under the same ownership, then said work may be performed

on any one (1) or more locations. Work so performed as annual assessment, where performed for the benefit of a group contiguous and under common ownership, shall be such that it shall be of material benefit to each and every location forming the contiguous group.

(6) Written proof that such work has been done shall be filed with the state board of land commissioners on such forms and in such manner as it shall prescribe. Such procedure shall empower the locator to retain possession of and prospect said location for a period of two (2) years, at the end of which time he shall be required to take a lease upon such terms as may be agreed upon by the state board of land commissioners. Provided, that the right granted under this section to prospect for mineral and to make locations shall not extend to lands in the possession of a purchaser under contract of sale from the state.

[(47-703) added 1923, ch. 96, sec. 3, p. 115; am. 1925, ch. 220, sec. 2, p. 404; am. 1933, ch. 107, sec. 1, p. 169; am. 1937, ch. 124, sec. 1, p. 185; am. 1951, ch. 72, sec. 1, p. 112; am. 1981, ch. 325, sec. 3, p. 677; am. 1990, ch. 316, sec. 1, p. 861; am. 2020, ch. 341, sec. 1, p. 998.]

47-703A. EXPLORATION ON STATE LANDS -- BOND. (1) With the exception of casual exploration as defined in subsection (6) (a) of this section, prior to motorized exploration on state lands, an operator shall first submit to the director of the department of lands, an exploration and reclamation plan and a bond in such form as prescribed by the board. The bond shall be in an amount determined by the board to be the estimated reasonable costs to perform the reclamation activities described in the exploration and reclamation plan in the event of the failure of the operator to complete those activities, plus ten percent (10%) of such costs, and conditioned on the payment of all damages to the land and resources thereon caused by the motorized exploration. An operator shall also comply with the dredge and placer mining act, [chapter 13, title 47](#), Idaho Code, and the surface mining act, [chapter 15, title 47](#), Idaho Code, where applicable. Written approval by the board is required prior to entry for motorized exploration.

(2) Except as provided in this subsection, no bond for exploration reclamation submitted pursuant to this chapter shall exceed two thousand five hundred dollars (\$2,500) for any given acre of affected land. The board may require a bond in excess of two thousand five hundred dollars (\$2,500) for any given acre of affected land only when the following conditions have been met:

(a) The board has determined that such bond is necessary to meet the requirements of this chapter;

(b) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary; and

(c) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond. The hearing shall be held under such rules as promulgated by the board. This requirement for hearing may be waived, in writing, by the operator. Any hearing that is held shall, at the discretion of the director, extend the time up to thirty (30) days in which the board must act on a submitted plan.

(3) Weather permitting, the board shall deliver to the operator within sixty (60) days after the receipt of any exploration and reclamation plan a notice of rejection or notice of approval of said plan, as the case may be; provided, however, that if the board fails to deliver a notice of approval

or notice of rejection within said time period, the plan submitted shall be deemed approved under subsection (1) of this section, and the operator may, upon furnishing a bond to the board that meets the requirements of subsection (1) of this section, commence and conduct his motorized exploration on the lands covered by such plan as if a notice of approval of said plan had been received from the board; provided, however, that if weather conditions prevent the board from inspecting the lands to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. Any notice of rejection issued by the director of the department of lands or his properly authorized designated officer may be appealed by the operator to the board.

(4) The operator shall reclaim the surface damaged by the motorized exploration to the approximate previous contour and condition insofar as is reasonably possible.

(5) When all reclamation activities described in the exploration and reclamation plan have been completed, the operator shall notify the board. Within thirty (30) days after the receipt of such notice, weather permitting, the board shall notify the operator as to whether or not the reclamation activities have been satisfactorily completed. Upon the determination by the board that the reclamation activities in question have been satisfactorily completed, the board shall release the bond. If weather conditions prevent the board from obtaining information needed to determine if the reclamation activities have been satisfactorily completed, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. Any notice issued by the director of the department of lands or his properly authorized designated officer to not release the bond may be appealed by the operator to the board.

(6) The following definitions shall apply to this chapter:

(a) "Casual exploration" means entry and/or exploration which does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. Exploration using suction dredges having an intake diameter of two (2) inches or less shall be considered casual exploration when operated on endowment lands in a perennial stream. Exploration using suction dredges having an intake diameter of five (5) inches or less shall be considered casual exploration when operated in a navigable river. All suction dredging on state lands must follow the requirements of the stream protection act, [chapter 38, title 42](#), Idaho Code.

(b) "Motorized exploration" means exploration which may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving or other motorized equipment, seismic operations using explosives, and sampling with suction dredges having an intake diameter greater than two (2) inches when operated on endowment land in a perennial stream, and sampling with suction dredges having an intake diameter greater than five (5) inches when operated in a navigable river. When operated in an intermittent stream, suction dredges shall be considered motorized exploration regardless of the intake size.

(c) "Exploration and reclamation plan" means, for this section only, a written plan and maps with sufficient detail to accurately describe all of the activities associated with motorized exploration on state lands and the activities associated with reclamation. Reclamation activities may include, but are not limited to, regrading to resemble the original contour, plugging drill holes and revegetation. An estimate of third party reclamation costs, acceptable to the board, shall be included in the plan and will be used to determine the bond amount.

[47-703A, added 1981, ch. 325, sec. 4, p. 679; am. 1990, ch. 317, sec. 1, p. 865; am. 2014, ch. 57, sec. 1, p. 135.]

47-704. LEASES OF MINERAL RIGHTS IN STATE LANDS. (1) The state board of land commissioners may lease in tracts of sizes as the board may deem fair for prospecting, exploration, and mining of mineral deposits, except for leases for oil, gas and other hydrocarbons that may be contained in any portion of the unsold lands of the state or that may be contained in state lands sold with a reservation of mineral deposits or that belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, for such annual rental, not less than one dollar (\$1.00) per acre per annum, and for such royalty upon the product as the board may deem fair and in the interest of the state, except in the case of state oil and gas leases wherein the royalty to the state shall be not less than twelve and one-half percent (12 1/2%), and provided that the minimum royalty shall not be less than two and one-half percent (2 1/2%) and not more than market conditions.

(2) All mineral leases, except leases for oil, gas, and other hydrocarbons, and geothermal resources of state school lands and for lands belonging to the state of Idaho, shall be for a term of up to twenty (20) years and shall be continued if any of the following provisions are met:

- (a) Precious metals, minerals, mineral concentrates, mineral products, or ores are produced in paying quantities;
- (b) The lessee has negotiated and remitted a prepaid royalty no less than five dollars (\$5.00) per acre per year;
- (c) The lessee in good faith conducts exploration, prospecting, work, or mining operations thereon;
- (d) The mineral lease is undergoing a regulatory approval process for exploration, prospecting, or mining; or
- (e) The lessee conducts work on land adjacent or near the leased premises as a single mining operation, including construction of infrastructure associated with mining.

(3) Provided, that the leaseholder of any mineral lease except leases for oil, gas, and other hydrocarbons, and geothermal resources heretofore or hereafter issued, upon the expiration of the initial lease and all renewals thereof, shall be given the preferential right to renew such lease or renewal leases under such readjustment of the terms and conditions as the board may determine to be necessary in the interest of the state.

(4) All applications received, whether by mail or by personal delivery over the counter, shall be immediately stamped with the date and hour of filing. Simultaneous filings result when two (2) or more applications are received for the same lands during the same hour of the same day. Simultaneous filings shall be resolved by competitive bidding. This provision does not apply to applications received from an applicant having a preferential right under this section. In the absence of a simultaneous filing, and except for

lands and resources which may be designated for competitive bidding, right of priority to a mineral lease shall be determined by the first qualified applicant who shall file a completed, signed application on the form of the department of lands or exact copy thereof between the hours of 8:00 a.m. and 5:00 p.m. during any business day, together with the application fee set by the board.

(5) Applications for mineral leases shall be made under oath in such form as the board may prescribe, and the applicant shall describe the land, specify the particular mineral or minerals, and give such additional information as may be required by the rules and regulations of the board. If the applicant for a lease has previously filed a certificate of location, as provided in section [47-703](#), Idaho Code, upon any part of the land desired to be leased, such application shall be given a preferential right to the land covered by his location; that no lands upon which a mineral location has been duly made and recorded as provided in section [47-703](#), Idaho Code, shall be leased for mining purposes during the two (2) year periods to any applicant except the person having made such location; provided, however, that no locations may be made for oil and gas deposits or lands, or geothermal resources.

(6) Any motorized exploration as defined in section [47-703](#), Idaho Code, on the lands between the ordinary high water marks of any navigable river of the state shall be prohibited except upon written approval by the board and submission of a bond to the department in the form and amount set by the board; and, if applicable, an operator shall also comply with the [Idaho] dredge and placer mining [protection] act, [chapter 13, title 47](#), Idaho Code; provided, that in all instances an operator shall comply with the stream protection act and all other applicable laws and rules of the state.

(7) Upon receipt by the state board of land commissioners of an application to lease any lands which may belong to the state of Idaho by reason of being situate between the high water marks of navigable rivers of the state, the board shall cause, at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. The board or its authorized representative shall hold a public hearing on the application, if requested in writing, no later than thirty (30) days after the last published notice by ten (10) persons whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the board may order a public hearing in the first instance. The board shall consider fully all written and oral submissions respecting the application.

(8) Provided, however, that the state board of land commissioners shall send notice of any such application for leasing the bed of navigable rivers to the director of the department of water resources, who, if the director thinks advisable, shall at the expense of the applicant make an investigation. If said investigation shows that the rights of interested parties may be jeopardized by the issuance of the proposed lease, the director shall give notice of such applications to parties affected thereby. If it shall appear to the state board of land commissioners that the leasing of any lands between the high water marks of any navigable river will be injurious to the rights of any person or persons having the right to the use of the waters thereof, for irrigation, power, or any other lawful purpose, the state board of land commissioners shall deny such application.

(9) Mineral leases granted according to this section, including but not limited to leases that have been awarded but not executed, shall comply with the following terms and conditions:

(a) After granting of a lease, no fees or payments shall be charged to lessees except for royalty payments, including prepaid and production, and rent per acre per annum.

(b) Rent per acre per annum may be indexed for inflation, but no more than three percent (3%) per annum. The rental paid shall be deducted from the royalties as they accrue for the life of the lease.

(c) No more than one (1) lease may be issued for the same mineral on the same land.

(d) Only one (1) lessee may hold multiple mineral leases on the same land.

(e) In the event of an exchange or sale involving leased lands, the purchaser shall accept and be assigned to perform the exact terms and conditions set forth in the lease as the lessor.

(f) The leaseholder demonstrates a mineral resource is present on the public lands using industry standard to estimate or project a mineral resource that is likely viable for future mineral development. The board shall recognize its role as a partner on behalf of state lands and provide confidentiality to the leaseholders regarding resource estimates that may be reported. If the leaseholder determines in the future to drop any mineral lease, the board may use this information for public consumption to encourage and support mineral development on those leases.

(g) No less than one hundred eighty (180) days prior to the expiration date of the mineral lease, lease terms and conditions shall be fairly modified and readjusted if needed. If an agreement cannot be reached, the lessor and lessee shall engage in good faith mediation. The lease shall remain in full force and effect during the mediation.

[(47-704) added 1923, ch. 96, sec. 6, p. 115; am. 1925, ch. 220, sec. 3, p. 404; am. 1937, ch. 124, sec. 2, p. 185; am. 1939, ch. 99, sec. 1, p. 166; am. 1949, ch. 77, sec. 1, p. 135; am. 1951, ch. 43, sec. 1, p. 52; am. 1957, ch. 201, sec. 1, p. 416; am. 1957, ch. 210, sec. 1, p. 439; am. 1967, ch. 225, sec. 1, p. 676; am. 1980, ch. 31, sec. 1, p. 54; am. 1981, ch. 325, sec. 5, p. 679; am. 1986, ch. 81, sec. 3, p. 240; am. 1990, ch. 316, sec. 2, p. 863; am. 1990, ch. 317, sec. 2, p. 866.; am. 2020, ch. 341, sec. 2, p. 999.]

47-705. APPRAISAL OF IMPROVEMENTS -- TERM CONSTRUED. Should any one apply to lease for prospecting and mining purposes the mineral deposits belonging to the state upon which improvements have been made, before the lease shall issue, to other than the owner of the improvements thereon, the applicant shall pay to the owner thereof the value of said improvements and shall file in the office of the state board of land commissioners a receipt showing that the price of said improvements, as agreed upon by the parties or fixed by appraisalment under authority of the said board, has been paid to the owner thereof in full, or shall make satisfactory proof that he has tendered to such owner the price of said improvements so agreed upon or fixed by appraisalment. The word "improvements" within the meaning of this section and of section [47-706](#) shall be construed to mean work performed in the development of the property, the estimated value of all known or probable mineral contained in the land that has been discovered or developed through mining

excavations made by lessee, and all buildings, dwellings, mill machinery, mine machinery, trails, roads, and all equipment used, constructed and necessary for the operation of the mine, mill or plant.

[(47-705) 1923, ch. 96, sec. 7, p. 115; am. 1925, ch. 220, sec. 4, p. 404; I.C.A., sec. 46-707.]

47-706. FORFEITURE OF IMPROVEMENTS. If any mineral lease has been cancelled for a period of one (1) year and a new lease has not issued the improvements upon the property shall revert to and become the property of the state.

[(47-706) 1923, ch. 96, sec. 8, p. 115; I.C.A., sec. 46-708.]

47-707. FORFEITURE OF LEASES. All leases of mineral deposits shall be conditional upon payment of the rental in advance annually, and upon the payment of the royalty provided for in the lease and upon the violation of any of the conditions of the lease, the board may at its option, after thirty (30) days' notice by registered mail, cancel the lease. Upon failure or refusal of the lessee to accept the readjustment of terms and conditions determined by the board at the end of any lease period, such failure or refusal shall work a forfeiture of the preferential right of the lessee. A forfeiture of such lease, and all rights of the lessee thereunder, may be declared by the state board of land commissioners for a violation of any of the terms or conditions of said lease or of any rule or regulation of said board with respect thereto or of any of the provisions of this chapter.

[(47-707) added 1923, ch. 96, sec. 9, p. 115; am. 1925, ch. 220, sec. 5, p. 404; am. 1967, ch. 225, sec. 2, p. 676; am. 2020, ch. 341, sec. 3, p. 1002.]

47-708. RIGHTS AND LIABILITIES OF LESSEES. A lessee of valuable mineral deposits shall have the right at all times to enter upon the lands described in his lease for prospecting and mining, provided he shall not injure, damage, or destroy the improvements of the surface owner; and the lessee shall be liable to and shall compensate such owner for all damages to the surface of said land and improvements thereon.

Any such lessee may occupy so much of the surface of said land as may be required for all purposes reasonably incident to the mining and removal of the mineral deposits: first, upon securing the written consent or waiver of the surface owner; or, second, upon payment of the damages to the surface of said land and improvements thereon to the owner thereof where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond, or undertaking, to the state of Idaho, for the use and benefit of the owner of the land to secure the payment of such damages, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in the form prescribed by and in accordance with the rules and regulations of the board and to be filed with and approved by the board.

Lessees of mineral lands shall fully protect the rights of all agricultural and grazing leases which have been heretofore, or may be hereafter granted, by erecting and keeping closed gates in all fences which may be opened, and inclosing or keeping covered all shafts, holes or open cuts.

[(47-708) 1923, ch. 96, sec. 10, p. 115; am. 1925, ch. 220, sec. 6, p. 404; I.C.A., sec. 46-710.]

47-709. MINES OPERATED UNDER LEASE -- INSPECTION BY BOARD. The state board of land commissioners shall cause inspection to be made by a competent person or persons of all mines or works operated under leases for the production of minerals as often as the board shall deem necessary in the interest of the state, and the board shall have the right at all times to inspect said mines or works.

[(47-709) 1923, ch. 96, sec. 11, p. 115; I.C.A., sec. 46-711.]

47-710. FORMS, RENTALS, ROYALTIES, AND FEES. The board shall by rules and regulations prescribe the form of application, the form of lease, the amount of filing and recording fees, the annual rental, the amount of royalty, the basis upon which the royalty shall be computed, and such other details as it may deem necessary in the interest of the state, except as otherwise provided in this chapter.

[(47-710) 1923, ch. 96, sec. 12, p. 115; I.C.A., sec. 46-712.]

47-711. SALE OF STATE LANDS CONTAINING MINERAL DEPOSITS. (1) Lands in which minerals are contained and the surface of which has a value for other purposes may be sold as a single estate under the provisions of [chapter 3, title 58](#), Idaho Code, relating to the sale of state lands, when the state land is identified as having the potential highest and best use for development purposes, such as residential, commercial or industrial purposes.

(2) For lands in which the surface estate previously has been sold with a reservation of the mineral estate, for which there is no lease of such mineral estate to any person other than the owner of the surface estate, and for which the potential highest and best use is for development purposes such as residential, commercial or industrial purposes, the mineral estate may be sold for its appraised value under the provisions of [chapter 3, title 58](#), Idaho Code. The purchaser of a mineral estate who is not the owner of the surface estate shall have the same rights and liabilities with regard to the surface estate as identified in section [47-708](#), Idaho Code.

(3) In the sale of the surface estate of all other state land, there shall be reserved to the state all mineral deposits and the right of the purchaser shall be subject to the conditions and limitations prescribed by law providing for the state or persons authorized by it to prospect for, mine and remove such deposits and to occupy and use so much of the surface of such land as may be required for all purposes reasonably incident to the mining and removal of such deposits therefrom.

[(47-711) 1923, ch. 96, sec. 13, p. 115; I.C.A., sec. 46-713; am. 2004, ch. 14, sec. 2, p. 11; am. 2004, ch. 271, sec. 1, p. 757.]

47-712. APPLICATIONS TO PURCHASE -- CERTIFICATES OF PURCHASE. All applications to purchase those state lands that have not been identified as having the potential highest and best use for development purposes, such as residential, commercial or industrial purposes approved subsequent to the passage of this chapter shall be subject to a reservation to the state of all mineral deposits in said land. The state or persons authorized by it to

prospect for, mine and remove the same as provided by law; and certificates of purchase issued by the state shall contain such reservation.

[(47-712) 1923, ch. 96, sec. 14, p. 115; am. 1925, ch. 220, sec. 7, p. 404; I.C.A., sec. 46-714; am. 2004, ch. 13, sec. 3, p. 11.]

47-713. EFFECT OF PARTIAL INVALIDITY OF CHAPTER. If any clause, sentence, paragraph, or part of this chapter shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

[(47-713) 1923, ch. 96, sec. 16, p. 115; I.C.A., sec. 46-715.]

47-714. LEASES OF NAVIGABLE RIVER BEDS AUTHORIZED. The board of land commissioners of the state of Idaho is hereby specifically authorized to lease for mining purposes the beds of navigable rivers of the state of Idaho between the high water marks thereof, said leases to be given under the terms and provisions of this chapter and the rules and regulations heretofore or hereafter adopted by said board.

[(47-714) I.C.A., sec. 46-718, as added by 1937, ch. 124, sec. 3, p. 185.]

47-715. COLLECTION OF ROYALTIES BY BOARD OF LAND COMMISSIONERS. The board of land commissioners of the state of Idaho is hereby authorized to collect royalties and other payments to the state of Idaho under mineral leases provided for by this chapter.

[(47-715) I.C.A., sec. 46-719, as added by 1937, ch. 124, sec. 4, p. 185.]

47-716. APPLICABLE ONLY TO DEPOSITS IN NATURAL STATE. The provisions of this chapter authorizing the leasing of the beds of the navigable rivers in the state of Idaho shall apply only to deposits in their natural state and shall not apply to dumps and tailings.

[(47-716) I.C.A., sec. 46-720, as added by 1937, ch. 124, sec. 5, p. 185.]

47-717. REMOVAL OF COMMERCIAL QUANTITIES WITHOUT LEASE UNLAWFUL. It shall be unlawful for any person, association, firm or corporation to remove in commercial quantities any ores, minerals, or deposits from state lands before securing a lease for said lands from the state board of land commissioners. Any person, association, firm or corporation who so removes ores, minerals or deposits shall be liable to the state for treble damages in a civil action.

[(47-717) I.C.A., sec. 46-721, as added by 1937, ch. 124, sec. 6, p. 185; am. 1989, ch. 262, sec. 1, p. 639.]

47-718. VIOLATIONS -- REMEDIES -- PENALTIES. (1) In addition to any other penalties and remedies of this chapter and at law, any person, firm,

or corporation who violates any provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed thereby, or who violates any determination or order thereunder or any violation of a lease granted under this chapter, the director of the department of lands may:

(a) Proceed by legal action in the name of the state of Idaho to enjoin the violation, by temporary restraining order, preliminary injunction and/or permanent injunction.

(i) The court, or a judge thereof at chambers, if satisfied from a verified complaint or by affidavit that the alleged violation has been or is being committed, may issue a temporary restraining order, without notice or bond, enjoining the defendant, his agents, employees, contractors and assigns from further violation, or from conducting exploration or mining on the state lands affected by the violation.

(ii) The verified complaint or affidavit that the alleged violation has been or is being committed shall constitute prima facie evidence of great or irreparable injury and/or great waste sufficient to support the temporary restraining order.

(iii) The action shall thereafter proceed as in other cases for injunctions. If at the trial the violation is established, the court shall enter a decree perpetually enjoining said defendant, his agents, employees, contractors and assigns from thereafter committing said or similar violations.

(b) Proceed by legal action in the name of the state of Idaho to obtain an order requiring the operator to promptly repair the damage and reclaim the state lands in accordance with the requirements of section [47-703A](#), Idaho Code, and rules adopted pursuant thereto. If thereafter the court finds that the operator is not promptly complying with such order, the court shall order the operator to immediately pay an amount determined by the department to be the anticipated cost of reasonable repair and reclamation in accordance with section [47-703A](#)(4), Idaho Code, and rules adopted pursuant thereto.

(c) Proceed to forfeit the operator's bond required by section [47-703A](#)(1), [47-704](#)(6) or [47-708](#), Idaho Code. The board may cause to have issued and served upon the operator alleged to be committing such violation, a formal complaint which includes a statement of the manner in and the extent to which said operator is alleged to be violating the provisions of this act. Such complaint may be served by certified mail, and return receipt signed by the lessee, an officer of a corporate lessee, or the designated agent of the lessee shall constitute service. The lessee shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the lessee fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the lessee, and the board may proceed to forfeit the bond in the amount necessary to reclaim affected lands and pay for any outstanding royalties and related administrative costs. The director of the department of lands is empowered to issue subpoenas. The hearing shall be conducted in accordance with [chapter 52, title 67](#), Idaho Code. The hearing officer shall enter an order in accordance with [chapter 52, title 67](#), Idaho Code. Appeal to a district court shall be in accordance with [chapter 52, title 67](#), Idaho Code.

(d) Cancel the lease in accordance with section [47-707](#), Idaho Code.

(2) In addition to the injunctive remedies of subsection (1) (a) of this section:

(a) Proceed in the first instance by legal action in the name of the state of Idaho to recover from an operator who without bond has conducted or is conducting exploration with heavy equipment on state lands, including lands between the ordinary high watermarks of navigable rivers, the cost of repairing damage to and reclaiming the affected state lands in accordance with section [47-703A](#)(4), Idaho Code, and rules adopted pursuant thereto; or if the bond on file with the department of lands is not sufficient to adequately reclaim the affected state lands, to recover the cost in excess of the bond to reclaim the affected state lands in accordance with section [47-703A](#)(4), Idaho Code, and rules adopted pursuant thereto.

(b) Proceed by legal action in the name of the state of Idaho to recover from an operator who has removed minerals in commercial quantities from state lands, including lands between the ordinary high watermarks of navigable rivers, in violation of the provisions of section [47-717](#), Idaho Code, damages in the amount of the prevailing royalty rate set by the board of land commissioners for the particular mineral removed plus interest from the date of removal at the legal rate of interest due on money judgments set by the Idaho state treasurer pursuant to section [28-22-104](#), Idaho Code, from the date of removal to judgment.

(3) In addition to any other penalties or injunctive remedies of this chapter, any person, firm, or corporation who violates any of the provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or order promulgated pursuant to the provisions of this chapter, shall be liable to a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each day during which any provision of this chapter, rule or order has been or is being violated. All sums recovered shall be credited to the general fund.

(4) An appeal from a final judgment of the district court shall be taken in the manner provided by law for appeals in civil cases.

[47-718, added 1981, ch. 325, sec. 6, p. 681; am. 1989, ch. 262, sec. 2, p. 640; am. 1993, ch. 216, sec. 43, p. 626; am. 2012, ch. 196, sec. 1, p. 527; am. 2014, ch. 57, sec. 2, p. 137.]