

**Zero-Based Regulation
Prospective Analysis**

- **Fill out entire form to the best of your ability, unless submitting a Notice to Negotiate only fill out 1, 2, 5 and 7. The rest of the form must be completed prior to the adoption of the proposed rule.**

Agency Name:

Rule Docket Number: 58-0113-2502, Rules for Ore Processing by Cyanidation

1. What is the specific legal authority for this proposed rule?

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Section 39-105, Idaho Code – Powers and Duties of the Director Section 39-107, Idaho Code - Board Section 39-118A, Idaho Code - Ore Processing by Cyanidation	Mandatory

2. Define the specific problem that the proposed rule is attempting to solve? Can the problem be addressed by non-regulatory measures?

DEQ initiated this rulemaking in response to public comments received during the update of IDAPA 58.01.13, Rules for Ore Processing by Cyanidation, initiated under Docket No. 58-0113-2501. Under [Senate Bill 1170](#) (S1170), the 2025 Idaho Legislature amended Chapter 1, Title 39, Idaho Code, with a revised Section 39-118A, which directed DEQ to bring the rules into compliance with the new code by July 1, 2025. Due to the narrow scope and quick turnaround required by S1170, DEQ proceeded with a temporary-proposed rule that updated IDAPA 58.01.13 by removing rule text that is now in statute and revised the remaining rule for consistency with the new provisions in Section 39-118A, Idaho Code. During the 2025 temporary-proposed rule proceedings promulgated under Docket No. 58-0113-2501, DEQ received numerous public comments that extended beyond the narrow scope of the rulemaking and would be best addressed under negotiated rulemaking. Insufficient time was available for negotiated rulemaking to meet the July 1, 2025 deadline; therefore, DEQ initiated this negotiated rulemaking to address the public comments and to provide an opportunity for all stakeholders to provide their input through multiple public meetings.

This problem cannot be addressed by non-regulatory measures.

3. How have other jurisdictions approached the problem this proposed rule intends to address?

a. Is this proposed rule related to any existing federal law?

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)

b. How does this proposed rule compare to other state laws?

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
Washington		
Oregon		
Nevada		
Utah		
Wyoming		
Montana		

Alaska		
South Dakota		

c. If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:

4. What evidence is there that the rule, as proposed, will solve the problem?

5. What is the anticipated impact of the proposed rule on various stakeholders? Include, how will you involve them in the negotiated rulemaking process?

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	None anticipated.
Impact to Idaho businesses, with special consideration for small businesses	None anticipated.
Impact to any local government in Idaho	None anticipated.

In Section 39-118A, Idaho Code, the 2025 Idaho Legislature directed DEQ to promulgate a rule by July 1, 2025. The scope of that rulemaking was limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). However, during the public comment period for the temporary-proposed rule, DEQ received significant comment on the rule. This new rulemaking will encourage stakeholders to attend public negotiated rulemaking meetings and DEQ will solicit public comments on negotiated rule drafts.

6. What cumulative regulatory volume does this proposed rule add?

Category	Impact
Net change in word count	
Net change in restrictive word count (Restrictive words include shall, must, may not, prohibit, and require.)	

7. Should this rule chapter remain as a rule chapter or be moved to statute as suggested in Section 67-5292, Idaho Code?

Category	Impact
What is the cost of publishing this rule chapter annually? (Multiply the number of pages x \$56)	24 pages \$1344
How frequently has this rule chapter been substantively updated over the past 5 years? (Exclude republishing triggered solely by recent sunset dates)	The rule underwent negotiated rulemaking starting in 2019 and the final rule was published in 2021. In addition, DEQ initiated temporary-proposed rulemaking in 2025 as required by Senate Bill 1170/Section 39-118A, Idaho Code.
What is the benefit of having all related requirements in a single location in Idaho Code?	Idaho Code § 39-118A, as updated by the 2025 Idaho Legislature, now includes permit processing requirements and timelines. However, the remaining rule includes approximately 18 pages of application, operating, and engineering design requirements. These requirements are likely to change as DEQ establishes a cyanidation permitting program and mining and engineering technologies continue to advance. It would not be beneficial to move this rule to statute.