

DEQ's Response to Comments/Proposed Rule

Rules for Ore Processing by Cyanidation, Docket No. 58-0113-2501

Comments

1. Idaho Mining Association
2. Perpetua Resources

Cmt #	Rule Section/ Subject Matter	Commenter	Comment Summary	Response
1	001.01, Scope and Intent	2	<p>The Scope and Intent should read: These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate and close a cyanidation facility. The provisions of these rules also establish requirements for water quality that address performance, construction, operation and closure of any cyanidation facility. These rules are intended to ensure that cyanide-containing materials, including spent ore, tailings, and process water, generated in cyanidation, and cyanidation pollutants are safely contained, controlled, and treated by having adequate containment through the use of liners, barriers, structures, or other measures to prevent discharge of cyanidation pollutants into the</p>	<p>The proposed revision includes language that is already included in Section 39-118(A)(1)(o), Idaho Code. Repeating statutory language in the rule is redundant.</p>

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			environment so that they do not impair beneficial use of waters or degrade waters.	
2	007. Definitions	1	Add the following definition: Containment. For the purposes of this rule, consists of liners, barriers, structures, or other similar physical measures to prevent discharge of cyanidation pollutants into the environment.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Adding definitions not currently in the rule or statute is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
3	007. Definitions	1	Add the following definition: Primary Containment. Means the receptacle in which cyanidation process water, spent ore, tailings, and other material from the cyanidation process is contained during normal operations and may include, but is not limited to, tanks, vessels, pipes, equipment, or liners that directly hold or transport such substances under normal operating conditions.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Adding definitions not currently in the rule or statute is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
4	007. Definitions	1	Add the following definition: Secondary Containment. A container, liner, or barrier intended to confine a spill or leak that originates from primary containment and may include, but is not limited to, berms, curbs, concrete slabs, vaults, or liners that	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Adding definitions not currently in the rule or statute is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.

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			confine substances that spill, drain, or leak from primary containment.	
5	007. Definitions	2	The definition for Process Water should read: Any liquid intentionally or unintentionally introduced into any portion of the cyanidation process which may contain cyanide pollutants.	Revised as suggested.
6	007. Definitions	2	The definition for Water Balance should be deleted from the rule.	The term “Water Balance” is used throughout the rule. Thus, removing this definition would require rule revision outside the scope of this rulemaking, which is limited to compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170) but could be considered during negotiated rulemaking planned for later this year.
7	007. Definitions	2	The definitions for Water Management Plan should read: A document that describes the approach to preventing unwanted water ingress or accumulation and describes the methods that will be used to ensure that cyanidation pollutants are not discharged from a cyanidation facility into waters unless permitted or otherwise approved by the Department.	The current definition for water balance is appropriate. Updating this definition would require rule revision outside the scope of this rulemaking, which is limited to compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170) but could be considered during negotiated rulemaking planned for later this year.
8	050.01	1	The last sentence in Pre-application Conference should state: Once a cost	The proposed rule language has been revised at Subsection 050.01 to be consistent with Section 39-118A(7)(a), Idaho

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			recovery agreement in accordance with Section 39-118A(7), Idaho Code has been executed, prospective applicants are encouraged to begin meeting with agents of the Department at least one (1) year in advance of preliminary design submittal to discuss, at a minimum, the following.	Code. In addition, Subsection 050.01.f has been deleted for consistency with the change to Subsection 050.01 and Section 39-118A(7)(a).
9	050.01.a	2	This section should state: Waste characterization requirements; siting requirements, operation and maintenance plans; quality assurance/quality control plans not required by other regulatory programs; required contents to permit applications; agency cyanidation facility visits.	The information required by this subsection is necessary to ensure compliance with Section 39-118A(9)(a) & (b) and 39-118A(10)(a), Idaho Code. The proposed revisions are not necessary for consistency or compliance with the revised statute and are outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
10	050.01.b	2	This section should be deleted from the rule.	<p>The information required by this subsection is necessary to ensure compliance with Section 39-118A(3), Idaho Code, which requires cyanidation facilities to be designed, operated, and maintained to prevent discharge of cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.</p> <p>(Can also reference 39-118A(9)(a) & (b) and 39-118A(10)(a) – compliance criteria and threshold values).</p>

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11	100.03	1	<p>Contents of Application should state: A permit application and its contents will be used to determine if an applicant can locate, construct, operate, maintain, close, and monitor the proposed cyanidation facility in conformance with these rules. The application must include all of the following information in sufficient detail to allow the Director to make necessary application review decisions concerning protection of human health and the environment:</p>	<p>This section has been revised to reference Section 37-118A(8) regarding application requirements, and Section 39-118A(1)(o) related to technical completeness.</p>
12	100.03	1	<p>To conform with statute language permit application requirements should be clearly separated from Issued for Construction requirements.</p>	<p>The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The statute clearly provides the agency with the ability to separate application approval processes into phases that include design, issued for construction, and as-builts. Updating specific permit application requirements, engineering requirements, and issued for constructions requirements should be addressed through negotiated rulemaking.</p>
13	100.03.k	2	<p>This section should state: A geotechnical evaluation of the subgrade which containment within the proposed cyanidation facility will be placed.</p>	<p>The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for specific engineering requirements is not necessary for compliance or consistency with the</p>

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				statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
14	100.03.l.i	2	This section should be deleted from the rule.	The information required by this subsection is necessary to ensure compliance with Section 39-118A(3), Idaho Code, which requires cyanidation facilities to be designed, operated, and maintained to prevent discharge of cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.
15	100.03.l.iii	2	This section should be deleted from the rule.	The information required by this subsection is necessary to ensure compliance with Section 39-118A(3), Idaho Code, which requires cyanidation facilities to be designed, operated, and maintained to prevent discharge of cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.
16	100.03.l.iv	2	This section should state: Identified floodplain within the facility layout areas.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
17	100.03.l.v	2	This section should be deleted from the rule.	The information required by this subsection is typical for DEQ permit applications and may aid the public when

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				commenting during the public comment period. Regardless, the proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
18	100.03.I.vi	2	This section should be deleted from the rule.	The information required by this subsection is typical for DEQ permit applications and may aid the public when commenting during the public comment period. Regardless, the proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
19	100.03.I.vii	2	This section should be deleted from the rule.	The information required by this subsection is necessary to ensure compliance with Section 39-118A(3), Idaho Code, which requires cyanidation facilities to be designed, operated, and maintained to prevent discharge of cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.
20	100.03.I.viii	2	This section should be deleted from the rule.	The information required by this subsection is necessary to ensure compliance with Section 39-118A(3), Idaho Code, which requires cyanidation facilities to be designed, operated, and maintained to prevent discharge of

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				cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.
21	100.03.n	2	This section should state: A description and siting diagram of proposed land application sites. The description must include a potentiometric map, surface and subsurface soil characteristics, geology, hydrogeology and ground water quality. The description of these characteristics must be sufficient to determine anticipated impacts to the affected soils, associated vadose zone as well as anticipated changes in geochemistry that may affect surface and ground water quality.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
22	100.03.o	2	This section should be deleted from the rule.	The information required by this subsection is necessary to ensure compliance with Section 39-118A(3), Idaho Code, which requires cyanidation facilities to be designed, operated, and maintained to prevent discharge of cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.
23	100.03.p	2	This section should be deleted from the rule.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the

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				statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
24	100.03.r	2	This section should state: Preliminary engineering plans and specifications for primary and secondary containment subject to this Rule for those components or phases of the cyanidation facility for which a permit is being sought.	Revised to clarify sentence on preliminary design.
25	100.03.r.i	2	This section should state: Designs sufficient to demonstrate the facility's ability to meeting applicable criteria in Sections 200 through 204.	Revised as suggested.
26	100.03.r.iii	2	This section should state: The water balance, ore flow, and processing calculations sufficient to demonstrate the logic behind sizing of containment regulated under this Rule, as applicable.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
27	100.03.r.iv	2	This section should state: The general ore processing overview and assessment of chemical compatibility of applicable containment materials with process	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is

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			chemicals and wastes, including containment for TSFs, ponds, and leach pads.	not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking but could be considered during negotiated rulemaking planned for later this year.
28	100.03.r.v	2	This section should be moved to Section 200 of the rule as an IFC requirement.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
29	100.03.r.vi	2	Delete this section of rule.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
30	100.03.r.vii	2	Delete this section of rule.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.

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31	100.03.r.viii	2	This section should be moved to Section 200 as an IFC requirement.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
32	100.03.r.ix	2	This section should be moved to Section 200 as an IFC requirement.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
33	100.03.r.x	2	This section should be moved to Section 200 as an IFC requirement.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
34	100.03.r.xi	2	This section should be moved to Section 200 as an IFC requirement.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the

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35	100.03.r.xii	2	Delete this section of rule.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
36	100.03.r.xiii	2	This section should state: Plan views and cross-section drawings of leach pad, permanent heaps, process water storage ponds, tailings impoundments, and spent ore disposal areas.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
37	100.03.xiv	2	This section should state: When such systems are required, leak detection and collection system plans and specifications for tailings storage facilities, leach pads, or ponds including, but not limited to, schematics and narratives describing liner and geotextile material specifications, sump capacity and layout, location of monitoring port(s), monitoring port components, construction operation and	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.

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			<p>maintenance procedures for monitoring ports and pumping systems, including backup system, triggers for containment repairs, replacement or other contingency mitigation, frequency of monitoring, and monitoring parameters.</p> <p>Also section may be moved to Section 200 as an IFC requirement.</p>	
38	100.03.xvi	2	<p>This section should state: Quality assurance/quality control procedures for construction of primary and secondary containment systems to which this Rule is applicable.</p>	<p>The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.</p>
39	100.03.xvii	2	<p>Delete this section of rule.</p>	<p>The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.</p>
40	100.03.s	2	<p>This section should state: Preliminary operation and maintenance plans that include all of the following:</p>	<p>The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The</p>

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				proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
41	100.03.s.i	2	This section should state: Maintenance plans, including routine service procedures for secondary containment systems to which this Rule is applicable.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
42	100.03.s.ii	2	This section should state: A water management plan that provides for handling and containment of process water including the methods to manage process water and cyanidation pollutants, run-off or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The plan must include the basis for the designed containment volumes subject to this Rule and estimations of the need for and operation of a land application site, injection wells, infiltration galleries or leach fields. The permittee will update the plan on a regular basis to reflect the reconciliation of the water balance,	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.

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			containment capacity changes through construction, operation, maintenance, and permanent closure, including modifications to the cyanidation facility.	
43	100.03.s.iii	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
44	100.03.s.iv	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
45	100.03.u	2	This section should state: Characterization of cyanidation pollutants contained in or released from the cyanidation facility.	The information required by this subsection is necessary to ensure compliance with Sections 39-118A(3) and 39-118A(8), Idaho Code, which require cyanidation facilities to be designed, operated, and maintained to prevent discharge of cyanidation pollutants that would impair or degrade waters of the state. Therefore, this subsection is retained.

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46	200	1	Revise 200 to have separate sections detailing requirements specific to IFC Data Package.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating permit application requirements, engineering requirements, and issued for constructions requirements should be addressed through negotiated rulemaking.
47	200.01	2	Professional Engineer should state: Plans and specifications for construction, alteration, or expansion of secondary containment components subject to this Rule must be prepared by or under the supervision of an Idaho licensed professional engineer and bear the imprint of the engineer's seal. Construction must be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revision for updating engineer stamp requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
48	200.02	2	Plans and Specifications should state: An issued for construction data package must include Engineer-stamped plan views and cross-section drawings of the components or phases of the leach pads, permanent heaps, process water storage ponds, tailings impoundments, spent ore disposal areas, leak detection and collection systems, and process facility secondary containment that	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revisions to this subsection are already in statute, as referenced in the updated rule, and are redundant. Further updating application requirements is not necessary for compliance or consistency with the statute and is

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			<p>are proposed for construction. These plans and specifications must be submitted to and approved by the Department before construction of those components or phases may begin (Section 39-118A(18)(b), Idaho Code). All construction must be in compliance with Section 39-118A(17), Idaho Code. Within thirty (30) days of the completion of such construction, an as-built submittal must be submitted to the Department (Section 39-118A(19), Idaho Code) for the completed components or phases.</p>	<p>outside the scope of this rulemaking and should be addressed in negotiated rulemaking.</p>
49	200.03	2	<p>Manufacturer's Specifications should state: Manufacturer's specifications for materials and equipment necessary to meet the requirements of Subsection 100.03.r. and Sections 200 through 205 for containment of process water to which this rule is applicable must be submitted to the Department with the plans and specifications required in Subsection 200.02 before construction of a component or phase may begin.</p>	<p>The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revisions are redundant language and not necessary for compliance with the statute. Further updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.</p>

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			This requirement should also only apply to IFC submission.	
50	200.04	2	Siting and Preparation should state: All cyanidation facilities secondary containment subject to this Rule must be appropriately sited and prepared for construction. All sites must be approved by the Department.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating construction or engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
51	200.05	2	Process Water Storage Sizing Criteria should state: To the extent the sizing of those aspects facilities, or components is regulated in this Rule and accomplished using the water balance, aspects of the cyanidation facility that entrain, treat, discharge, or otherwise contain process water, treated process water, or run-off water from any portion of the cyanidation facility must be included in the water balance. Each pond, tailings impoundment, and ditch containing process water must be designed to maintain a minimum two (2) foot freeboard during storage or conveyance of the design climatic events plus maximum expected normal operating levels. Curbed or banded process water secondary	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.

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			<p>containment areas must have the capacity to store at least 110% of the volume of the largest tank served by the secondary containment. Leach pad design must provide containment of the maximum expected operating flows plus storm flows from the design climatic event. At a minimum, a cyanidation facility must be designed to contain the maximum expected normal operating volume and the volume of run-on and run-off water associated with a climatic event that has a one percent (1%) annual exceedance probability. Snowmelt events will be considered in determining the maximum flow volume during the design climatic event. Contingency plans for managing excesses of all water included as a part of the primary containment water balance must be described in the water management plan. Each structure that impounds process water or process-contaminated water must include a means of passing excess water unless otherwise approved by the Department.</p>	
52	200.06.b.iii.(3)	2	This section should state: Materials or anchoring techniques that provide	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new

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			appropriate shear resistance as applicable, of the upper and lower component interface, or mechanical anchoring of the liner materials, to prevent sliding of the upper component including on slopes;	provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
53	200.06.b.vi	2	This section should state: Where applicable, have an appropriate coefficient of friction against sliding plus a factor of safety for each interface constructed on a slope or appropriate anchoring at the top of the slope.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
54	200.06.b.viii	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
55	200.07	2	Process Buildings, Process Chemical Storage Containment Areas and General Facility Criteria should state: Storage, handling and use of all process wastes containing cyanide pollutants, process water, and cyanidation pollutants must be conducted within a clean, safe and secure	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Sections 39-118A(1)(k)(vi), 39-118A(1)(n), 39-118A(1)(o), 39-118A(3), 39-118A(8), and 39-118A(9), Idaho Code require plans for monitoring, water management, operations, maintenance, and surveillance. The proposed revisions are not necessary

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			work space to prevent unauthorized discharges to soils, ground water or surface water. The plans and specifications must provide for:	for statute compliance and are outside the scope of this rulemaking. Any revisions to the rule not specified in the statute should be addressed in negotiated rulemaking.
56	200.07.a	2	This section should state: Structural integrity of secondary containment for process buildings;	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
57	200.07.b	2	This section should state: Restriction of public access with gates and guards and will not require fencing;	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
58	200.07.c	2	This section should state: Protection of wildlife with a barrier to prohibit access to ponds, but not the site or natural water bodies;	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.

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59	200.07.d	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
60	200.07.e	2	This section should state: Grouted and sealed concrete stemmed walls and floors in the process buildings and containment facilities;	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
61	2007.07.g	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
62	2007.07.h	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside

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				the scope of this rulemaking and should be addressed in negotiated rulemaking.
63	2007.07.i	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
64	2007.07.j	2	This section should state: Quality assurance/quality control procedures for construction activities and construction materials for containment regulated under this Rule, along with the qualifications required of the person(s) in charge of quality control for such containment.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revisions are redundant language and not necessary for compliance with the statute. Further updating application requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
65	200.09	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.

Cmt #	Rule Section/ Subject Matter	Commenter	Comment Summary	Response
66	200.09.a	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
67	200.09.b	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
68	200.09.c	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating engineering requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
69	200.10.a	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Sections 39-118A(1)(k)(vi), 39-118A(3), and 39-118A(8), Idaho Code require plans for operations, maintenance, and surveillance.

Cmt #	Rule Section/ Subject Matter	Commenter	Comment Summary	Response
				The subsection proposed for deletion is not inconsistent with the statute requirements. Any revisions to the rule not specified in the statute should be addressed in negotiated rulemaking.
70	200.10.b	2	This section should state: Schedule for inspections of all containment systems subject to the Rule;	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revisions are redundant language and not necessary for compliance with the statute. Any revisions to the rule not specified in the statute should be addressed in negotiated rulemaking.
71	200.10.c	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Sections 39-118A(1)(k)(vi), 39-118A(3), and 39-118A(8), Idaho Code require plans for operations, maintenance, and surveillance. The subsection proposed for deletion is not inconsistent with the statute requirements. Any revisions to the rule not specified in the statute should be addressed in negotiated rulemaking.
72	200.10.d	2	This section should state: Response plans that detail specific actions that will result in mitigation of compromised or damaged containment systems subject to the rule; and	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). The proposed revisions are redundant language and not necessary for compliance with the statute. Any revisions to

Cmt #	Rule Section/ Subject Matter	Commenter	Comment Summary	Response
				the rule not specified in the statute should be addressed in negotiated rulemaking.
73	200.11.d	2	This section should state: Be site specific and dependent on location, design and operation of the cyanidation facilities included in the overall preliminary operating plan;	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
74	200.15	2	Delete this section.	The scope of this rulemaking is limited to making revisions necessary for compliance and consistency with the new provisions in Section 39-118A, Idaho Code (S1170). Updating these rule requirements is not necessary for compliance or consistency with the statute and is outside the scope of this rulemaking and should be addressed in negotiated rulemaking.
75	500.10	2	Delete this section.	This Subsection was previously updated to reference requirements in Section 39-118A(16)(a). Therefore, this language will be retained.