Rules for Ore Processing by Cyanidation, IDAPA 58.01.13

Negotiated Rulemaking Meeting – 58-0113-2502

May 1, 2026

STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

Adam McMahon
Cyanidation Program Manager

Agenda

- Welcome and Introduction
- Overview
- Working Session
- Next Steps

Negotiated Rulemaking – 58.0113.2502

- Why negotiated rulemaking?
  - Cyanidation rules promulgated under statute - Section 39-118A, Idaho Code
  - Senate Bill 1170 (2025) revised Idaho Code § 39-118A
  - DEQ issued temporary/proposed rules; received significant public comment
- How negotiated rulemaking?
  - Public meetings followed by public comment period
- Rules for Ore Processing by Cyanidation: Docket No. 58-0113-2502 - Idaho Department of Environmental Quality

Rule Draft #2

- Rulemaking Meeting 2 – April 3, 2026
- Public comment ended April 10, 2026
  - Idaho Mining Association, Perpetua Resources
- Comment Categories
  - Clarify duplicate permitting requirements
  - Seasonal/temporary closure requirements
  - Characterization and prediction of cyanidation pollutants

Public Comment Discussion

- Duplicative permitting requirements
  - 39-118A(10)(a): "…shall not duplicate or conflict with other permits or the permitting process for other permits required pursuant to Idaho law..."
  - Updated Section 100.03 when referencing other state requirements (IDAPA)
  - Retained wildlife protection; reduced duplicative requirements

Public Comment Discussion

- Seasonal/Temporary Closure Requirements
  - Updated rule to clarify seasonal/temporary closure is specific to pausing operations
  - “Closure” replaced with “Operating Suspension”
  - Updates in definitions; Sections 200.14 and 500

Public Comment Discussion

- Characterization and prediction of cyanidation pollutants
  - Pollutants should be characterized by process component or facility containment
  - Updated Section 100 to allow characterization by component or circuit

Rule Draft 3 Working Session



Next Steps

- Public comments are due to DEQ by close of business on May 5, 2026.
- Rules for Ore Processing by Cyanidation: Docket No. 58-0113-2502 - Idaho Department of Environmental Quality
- Next negotiated rulemaking meeting scheduled May 1, 2026.
- Additional meetings needed?

Questions?

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Section 39-118A, Idaho Code

- (3) A cyanidation facility shall be:

  (a) Designed with controls sufficient to contain, control, and treat cyanidation process water, spent ore, tailings, and other material from the cyanidation processes to prevent discharge of cyanidation pollutants into the environment that would impair beneficial use of waters of the state or degrade waters of the state. Such controls shall be based on generally accepted design standards that are consistent with generally accepted engineering practices and quality control and quality assurance procedures; and

  (b) Maintained and operated in a manner that prevents discharge of cyanidation pollutants into the environment that would impair beneficial use of waters of the state or degrade waters of the state.

Section 39-118A, Idaho Code

- (1)(d) "Controls" means any containment structures, liners, pads, equipment, devices, procedures, or systems utilized to meet the requirements of this section.
- (1)(g) “Cyanidation pollutants" means any chemical or constituent used or concentrated during cyanidation that is present in process water, spent ore, tailings, or other material from the cyanidation process in such concentrations or amounts that, if discharged into the environment, have the potential to cause adverse effects to any beneficial use of waters of the state or to degrade waters of the state.

Section 39-118A, Idaho Code

- (11)(a)
  - Outlines application review process
  - Application must be technically complete to issue draft permit
- (8)
  - General application content requirements
  - Doesn’t require issued for construction level of design for engineering if conditioned in permit

Section 39-118A, Idaho Code

- (1)(o) "Technical completeness" means that the permit application and its contents contain designs, specifications, supporting plans, and documentation that comply with the provisions of this section to contain, control, and treat cyanidation process water, spent ore, tailings, and other material from the cyanidation process by having adequate containment through the use of liners, barriers, structures, or other measures to prevent discharge of cyanidation pollutants into the environment that would impair beneficial use of waters of the state or would degrade waters of the state. For technical completeness, containment means:

  (i) Secondary containment for process equipment, tanks, and piping; and

  (ii) Primary and secondary liners associated with leach pads, tailings storage facilities, and process ponds.

Section 39-118A, Idaho Code

- (1)(k) "Issued for construction (IFC) data package" means plans and specifications for actual construction of a cyanidation facility consistent with the criteria for the IFC data package and other supporting documents that is stamped by an Idaho-licensed professional engineer and includes the following:

  (i) IFC specifications, including any storage features or secondary containments, as applicable;

  (ii) A final report documenting the basis of the design;

  (iii) IFC drawings depicting facility layout and typical sections;

  (iv) Final capacity calculations;

  (v) Final load validation, if applicable; and

  (vi) Plans consistent with IFC design for closure, monitoring, water management, operations, maintenance, and surveillance.

Section 39-118A, Idaho Code

- (10)(a) The department's review of any application made pursuant to this section shall not duplicate or conflict with other permits or the permitting process for other permits required pursuant to Idaho law, including permits administered by the department regarding protecting air, surface water, and ground water resources and authorizations made by the Idaho department of lands regarding reclamation and closure of a cyanidation facility. To the extent that other permits under Idaho law do not address or regulate potential cyanidation pollutants discharged from a cyanidation facility, the department may review and address such cyanidation pollutants or other pollutants in accordance with the provisions of this section and rules promulgated thereunder.