

**IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY**

**58.01.13 – RULES FOR ORE PROCESSING BY CYANIDATION**

**DOCKET NO. 58-0113-1901**

**NOTICE OF NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the meeting at one of the following locations. The public may participate by telephone and web conferencing at any of the meeting locations or with individual connections. Individuals interested in participating by telephone and web conferencing should contact the undersigned by the date provided in the table below. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

**MEETING SCHEDULE:** A negotiated rulemaking meeting has been scheduled. Any additional meeting dates will be posted at [www.deq.idaho.gov/58-0113-1901](http://www.deq.idaho.gov/58-0113-1901)

<b>*ORIGINATING LOCATION – LIVE MEETING*</b>	
<b>DEQ State Office Conference Center 1410 N. Hilton, Boise, Idaho</b>	
<b>Friday, May 3rd, 2019 – 9:00 a.m. to 1:00 p.m. (MDT)</b>	
<b>*TELEPHONE AND WEB CONFERENCE LOCATIONS*</b>	
<b>DEQ Coeur d’Alene Regional Office 2110 Ironwood Parkway Coeur d’Alene, ID 83814</b>	<b>DEQ Lewiston Regional Office 1118 F Street Lewiston, ID 83501</b>
<b>DEQ Twin Falls Regional Office 650 Addison Avenue West, Suite 110 Twin Falls, ID 83301</b>	<b>DEQ Pocatello Regional Office 444 Hospital Way #300 Pocatello, ID 83201</b>
<b>DEQ Idaho Falls Regional Office 900 N. Skyline, Suite B Idaho Falls, ID 83402</b>	
<b>Contact the undersigned by May 2, 2019, to make arrangements for participation by telephone and web conferencing.</b>	

The meeting locations will be accessible to persons with disabilities, and language translators will be made available upon request. Requests for these accommodations must be made no later than five (5) days prior to the meeting date. For arrangements, contact the undersigned.

**PRELIMINARY DRAFT RULE:** DEQ did not draft a preliminary draft rule for public review prior to the first meeting. The first meeting has been scheduled for the purpose of discussing the current minimum design, construction and closure requirements identified in the “Rules for Ore Processing by Cyanidation,” IDAPA 58.01.13; discussing the areas of improvement identified in the Idaho Mining Association (IMA) letter submitted to the DEQ

Director on March 18, 2019; and setting a path forward for negotiated rulemaking. More information regarding this rule docket is available at [www.deq.idaho.gov/58-0113-1901](http://www.deq.idaho.gov/58-0113-1901).

**DESCRIPTIVE SUMMARY:** The IMA requested, via letter submitted to the Director on March 18, 2019, that DEQ revise the rules to move away from prescriptive design and construction requirements to performance-based outcomes for design, construction and closure. The current rules, adopted by the Idaho Board of Environmental Quality in 2005 and approved by the Idaho Legislature in 2006, adopted minimum design and construction criteria for all cyanidation facilities. IMA's letter to DEQ states that technologies and industry best practices for cyanidation facilities have changed since 2006. Negotiated rulemaking is necessary to evaluate such changes and determine if the rules should be updated. IMA's letter is posted at [www.deq.idaho.gov/58-0113-1901](http://www.deq.idaho.gov/58-0113-1901).

The rules will be evaluated and revised as appropriate to account for current best available technologies or best practices for design, construction and closure of cyanidation facilities that can achieve necessary regulatory goals of protecting human health and the environment. The negotiated rulemaking is anticipated to address the following:

- (1) applicability of the design criteria to different types of cyanidation facilities;
- (2) consideration of a broader range of acceptable materials included in the design;
- (3) broader interpretation of performance and compliance regarding constructibility of leak detection systems;
- (4) variability in design approach based on the physical characteristics of impounded materials; and
- (5) variability in design approach based on the chemical characteristics of impounded materials and process water.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. IMA, mining companies, companies or individuals with or intending to seek cyanidation permits, conservation and environmental groups, federal environmental and land management agencies, counties, cities, and citizens of Idaho may be interested in participating in this rulemaking. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this rulemaking, contact Don Carpenter at [don.carpenter@deq.idaho.gov](mailto:don.carpenter@deq.idaho.gov) or (208) 373-0141.

**SUBMISSION OF WRITTEN COMMENTS:** Written comments may be submitted by mail, fax or email at the address below. Information regarding public comment opportunities provided throughout the rulemaking process will be available at [www.deq.idaho.gov/58-0113-1901](http://www.deq.idaho.gov/58-0113-1901) or by contacting the undersigned.

Dated this 1st day of May, 2019.

Paula J. Wilson  
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