

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.13 – RULES FOR ORE PROCESSING BY CYANIDATION

DOCKET NO. 58-0113-1901

(SECOND) NOTICE OF INTENT TO PROMULGATE RULES – 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 meetings 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 meetings, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: Negotiated rulemaking meetings have been scheduled. Any additional meeting dates will be posted at www.deq.idaho.gov/58-0113-1901.

ORIGINATING LOCATION – LIVE MEETING	
DEQ State Office Conference Center 1410 N. Hilton, Boise, Idaho	
Thursday, February 6th, 2020 – 9:00 a.m. to 12:30 p.m. (MST) and Friday, March 13th, 2020 – 9:00 a.m. to 12:30 p.m. (MDT)	
Contact the undersigned to make arrangements for participation by telephone and web conferencing.	
TELEPHONE AND WEB CONFERENCE LOCATIONS	
DEQ Coeur d’Alene Regional Office 2110 Ironwood Parkway Coeur d’Alene, ID 83814	DEQ Lewiston Regional Office 1118 F Street Lewiston, ID 83501
DEQ Twin Falls Regional Office 650 Addison Avenue West, Suite 110 Twin Falls, ID 83301	DEQ Pocatello Regional Office 444 Hospital Way #300 Pocatello, ID 83201

**DEQ Idaho Falls Regional Office
900 N. Skyline, Suite B
Idaho Falls, ID 83402**

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.

NEGOTIATED RULE DRAFTS AND MEETING PRESENTATIONS: Negotiated rule drafts, meeting presentations, and a list of previous meeting dates are available at www.deq.idaho.gov/58-0113-1901.

DESCRIPTIVE SUMMARY: DEQ published notice of this negotiated rulemaking in the May 1, 2019, Idaho Administrative Bulletin, Vol. 19-5, pages 100-101, in response to a request for rulemaking submitted by the Idaho Mining Association (IMA). The May 2019 notice included the following description and issues to be addressed. The purpose of this revised notice is to notify the public that, in addition to the issues listed in the May 2019 notice, item number 6 listed below will also be open for discussion and comment during this negotiated rulemaking.

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.

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;
- (5) variability in design approach based on the chemical characteristics of impounded materials and process water; and
- (6) cyanidation permit application and administration, including recovery of costs incurred by DEQ in processing permit applications and administering issued permits.

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 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 or by contacting the undersigned. To sign up for email notifications, contact Paula Wilson at paula.wilson@deq.idaho.gov.

Dated this 5th day of February, 2020

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255
Phone: (208)373-0418
Fax No. (208)373-0481
paula.wilson@deq.idaho.gov