

Negotiated Rule Draft No. 5
Docket No. 58-0113-1901, Dated March 10, 2020

This draft includes revisions based on the February 6, 2020, meeting discussion, review of written comments received, and non-substantive edits. The revisions are highlighted in yellow.

Written comment deadline for this draft – March 20, 2020

IDAPA 58.01.13
Rules for Ore Processing by Cyanidation

000. LEGAL AUTHORITY.

Title 39, Chapter 1, Idaho Code, grants the authority to the Board of Environmental Quality to adopt rules, regulations and standards to protect the environment and the health of the State; grants authority to the Director to issue permits as prescribed by law and by the rules of the Board; and requires Department of Environmental Quality review and approval of plans and specifications for all new facilities, or for modifications or expansions to existing facilities, that process ore by cyanidation; and authorizes the Director to require ~~a~~ reasonable fees for processing permit applications and for services rendered by the Department of Environmental Quality. (4-11-06)

001. TITLE, SCOPE AND INTENT.

01. Title. These rules are titled Idaho Department of Environmental Quality Rules, IDAPA 58.01.13, “Rules for Ore Processing by Cyanidation.” (1-1-88)

02. Scope and Intent.

a. These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate and close that portion of a cyanidation facility that is intended to contain, treat or dispose of process water or process-contaminated water containing cyanide. The provisions of these rules also establish requirements for water quality protection which address performance, construction, operation and closure of that portion of any cyanidation facility that is intended to contain, treat, or dispose of process water. These rules are intended to ensure that process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent and pollutants associated with the cyanidation process are safely contained, controlled, and treated so that they do not interfere with the beneficial uses of the waters of the state and do not endanger public safety or the environment. (4-11-06)

b. ~~A permit issued under these rules does not authorize any discharge to or degradation of waters of the state. Compliance with a permit issued under these rules does not release the permittee from liability for any unauthorized discharge to or any unauthorized degradation of waters of the state caused by the facility. ()~~

~~**002. WRITTEN INTERPRETATIONS.**~~

~~As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-30-06)~~

003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Rules of Administrative Procedure Before the Board of Environmental Quality”. (3-15-02)

004. INCORPORATION BY REFERENCE.

These rules do not contain documents incorporated by reference. (3-30-06)

~~005. OFFICE HOURS — MAILING ADDRESS AND STREET ADDRESS.~~

~~The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. mountain time, Monday through Friday. (3-30-06)~~

006. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality". (3-15-02)

007. DEFINITIONS.

01. Beneficial Use. Any of the various uses which may be made of the surface and/or ground water of the state including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. Beneficial uses for specific stream segments are established in ~~Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," (1-25-95) ()~~

02. Best Management Practices (BMPs). Practices, techniques or measures developed, or identified, by the designated agency or identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements,~~" which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. ~~(3-30-06) ()~~

03. Cyanidation. The method of extracting target precious metals from ores by treatment with a cyanide solution, which is the primary leaching agent for extraction. (4-11-06)

04. Cyanidation Facility. That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings and process water. (4-11-06)

~~**XX. Degradation.** When referring to surface water, "degradation" has the meaning provided in Section 010 of IDAPA 58.01.02, "Water Quality Standards." When referring to ground water, "degradation" has the meaning provided in Section 007 of IDAPA 58.01.11, "Ground Water Quality Rule."~~

05. Department. The Idaho Department of Environmental Quality. (1-1-88)

06. Director. The Director of the Department of Environmental Quality or his designee. (12-31-91)

07. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)

08. Ground water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ~~(4-11-06)~~

~~**09. Impoundment.** For the purpose of these rules an impoundment means a structure such as a pond, reservoir, tank, or vat that collects and confines liquids or slurries. (7-1-97)~~

10. Land Application. A process or activity involving application of ~~liquids or slurries potentially containing cyanide from the cyanidation facility~~ ~~process water, neutralized process water, treated process water, semi-liquid material, or run-off water from any portion of the cyanidation facility~~ ~~wastewater,~~

~~surface water, or semi-liquid material~~ to the land surface for the purpose of treatment, neutralization, disposal, pollutant removal, or ground water recharge. (3-30-06)

11. Liner. A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of a surface impoundment ponds, tailings impoundments or leach pads which restricts the downward and lateral movement of liquids. (3-30-06)

12. Material Modification or Material Expansion. (4-11-06)

a. The addition of a new beneficiation process, or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to ~~degrade the~~ cause degradation of waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or (3-30-06)

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (4-11-06)

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to ~~degrade the~~ cause degradation of waters of the state. (4-11-06)

d. For a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility. (3-30-06)

13. Material Stabilization. Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (3-30-06)

14. National Idaho Pollution Pollutant Discharge Elimination System (NIPDES) Permit. A permit issued by the ~~U.S. Environmental Protection Agency~~ Department for the purpose of regulating discharges into surface waters. (3-30-06) ()

15. Neutralization or Neutralized. Treatment of process waters such that discharge or final disposal of those waters does not, or shall not, violate any applicable standards and criteria. (4-11-06)

XX. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in IDAPA 58.01.02, "Water Quality Standards." ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. ()

16. Permanent Closure. Those activities which result in neutralization, material stabilization and decontamination of cyanidation facilities and/or the facilities' final reclamation. (3-30-06)

17. Permanent Closure Plan. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Section 39-118A, Idaho Code, and Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions. (4-11-06) ()

18. Permit. When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and

construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (4-11-06)

19. Permittee. The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit. (7-1-97)

20. Person. An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body. (1-1-88)

~~**21. Pilot Facility.** (7-1-97)~~

~~**a.** A test cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine: (3-30-06)~~

~~**i.** The feasibility of metals recovery from an ore; or (7-1-97)~~

~~**ii.** The optimum operating conditions for a predetermined process to extract values from an ore. (7-1-97)~~

~~**b.** A pilot or test facility operates for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (3-30-06)~~

22. Pollutant. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials which, when discharged, cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. (3-30-06)

~~**XX. Pond.** A process component that stores, confines, or otherwise significantly impedes the horizontal and downward movement of process water. This term does not include tailings impoundments or non-earthen containers such as vats and tanks.~~

23. Post-Closure. The period of time after completion of permanent closure when the permittee is monitoring the effectiveness of the closure activities. Post-closure shall last a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, the rules promulgated thereunder, and these rules. ~~(3-30-06)~~ ()

24. Process Waters. Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (4-11-06)

25. Seasonal Closure. Annual cessation of operations that is due to weather. (1-1-88)

~~**XX. Sensitive Resource Aquifer.** Any aquifer or portion of an aquifer listed in Subsection 300.01 of the Ground Water Quality Rule, IDAPA 58.01.11. ()~~

~~**26. Small Cyanidation Processing Facility.** A cyanidation facility which chemically processes less than thirty six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or applicant may concurrently hold more than one (1) small cyanidation processing facility permit, if the facilities are located within ten (10) miles of each other. (3-30-06)~~

~~27. **Special Resource Water.** Those waters of the state which are recognized as needing intensive protection: (1-1-88)~~

~~a. To preserve outstanding or unique characteristics; or (1-1-88)~~

~~b. To maintain current beneficial use (refer to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," for a complete description; special resource waters for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"). (1-25-95)~~

28. State. The state of Idaho. (12-31-91)

XX. Tailings Impoundment. A process component designed for permanent storage of processed ore and liquids from the mining, milling, and chemical extraction process.

29. Temporary Closure. Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. (1-1-88)

30. Treatment or Treated. Any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (1-1-88)

31. Water Balance. An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (3-30-06)

32. Water Management Plan. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state unless permitted or otherwise approved by the Department. (4-11-06)

33. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (4-11-06)

34. Weak Acid Dissociable (WAD) Cyanide. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. (4-11-06)

008. -- 009. (RESERVED).

010. APPLICABILITY TO FACILITIES WITH EXISTING PERMITS.

A cyanidation facility with an existing permit approved by the Department prior to July 1, 2005 shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005. Material modifications or material expansions of such facilities are subject to Section 39-118A, Idaho Code. ~~The rules for ore processing by cyanidation in effect on June 30, 2005 can be obtained by contacting the Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov. (4-11-06)~~

011. -- 049. (RESERVED).

050. CONCEPTUAL DESIGN APPROVAL.

01. Information Required for Conceptual Design Approval. Submittal of a Conceptual Design Report is not mandatory. The Director may, if requested, give initial approval of the basic operation, design concepts, and environmental safeguards proposed based on the information included in a Conceptual Design Report. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. It is recommended that At a minimum, the Conceptual Design Report shall address the contents for a permit application as listed in Subsection 100.03, water quality protection criteria listed in Sections 200 through 204, and if applicable, the alternative design criteria listed in Section 205. The conceptual design shall be at the thirty percent (30%) design completion phase or greater upon submittal. (3-30-06) (---)

02. Notice of Conceptual Design Approval or Disapproval. Unless otherwise provided in this Subsection 050.02, The the Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of thirty (30) days from receiving all information as required under Subsection 050.01. For alternative design proposals submitted under Section 205, the Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of ninety (90) days from receiving all information as required under Section 205. The time required to review and approve, if appropriate, a conceptual design shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. (4-11-06) (---)

03. Preapplication Conference. Prospective applicants are encouraged to meet with agents of the Department at least one (1) year in advance of the application submittal must meet with the Department prior to application submittal of the Conceptual Design Report to discuss environmental baseline data requirements; waste characterization requirements; siting requirements for surface and ground water monitoring stations, mills, tailings impoundments, waste disposal sites and land application sites; monitoring well construction requirements; operation and maintenance plans; emergency and spill response plans; quality control/quality assurance/quality control plans for water quality sampling and analyses; required contents for permit applications; application procedures and schedules; conceptual design including any alternative design proposals; public review and comment periods; public meetings; and agency cyanidation facility visits; and the cost recovery agreement required under Subsection 100.04. Prospective applicants are encouraged to begin meeting with agents of the Department at least one (1) year in advance of the application submittal. The preapplication conference may trigger a period of collaborative effort between the applicant, the Idaho Department of Environmental Quality, and the Idaho Department of Lands in development of checklists to be used by the agencies in reviewing an application for completeness, accuracy and protectiveness. (3-30-06) (---)

050. PRE-APPLICATION PROCESS AND PRELIMINARY DESIGN.

01. Pre-application Conference. Any person who intends to apply for a permit or proposes to construct or operate a facility that is intended to contain, treat, or dispose of process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent should contact the Department during the initial stages of site characterization to schedule a pre-application conference. 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:

a. Environmental baseline data requirements; waste characterization requirements; siting requirements; operation and maintenance plans; emergency and spill response plans; quality assurance/quality control plans; required contents for permit applications; agency cyanidation facility visits;

b. The proposed water quality monitoring and reporting required in Subsection 200.09 and the monitoring well siting and construction plans required in Subsection 200.10. The applicant is encouraged to

submit a report describing the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization;

c. The preliminary design report and alternative design proposals required prior to application submittal under Subsection 050.02 of these rules;

d. The permitting process, application procedures, public review and comment periods, and permit schedule. A minimum of one hundred eighty (180) days is necessary prior to construction and operation of a cyanidation facility following the receipt of a complete application;

e. The timing of additional pre-application meetings. The pre-application conference may trigger a period of collaborative effort between the applicant, the Department, and the Idaho Department of Lands to develop an application that complies with rule requirements and ensures the facility will not interfere with the beneficial uses of the waters of the state and will not endanger public safety or the environment; and

f. The cost recovery agreement required under Subsection 100.04 of these rules.

02. Information Required for Preliminary Design Approval. Submittal of a preliminary design report is mandatory. The preliminary design report shall address each applicable requirement listed in Subsection 100.03 and Sections 200 through 205. Upon submittal, the preliminary design shall include sufficient detail to determine the following:

a. The general framework and design criteria for the project;

b. How the design criteria were identified, or the approach the applicant will use to determine design criteria for which insufficient data is available at the time of the preliminary design;

c. How the requirements of these rules will be met in the final permit application; and

d. How design, construction, operation and closure will ensure the facility will not interfere with the beneficial uses of the waters of the state and will not endanger public safety or the environment.

03. Notice of Preliminary Design Approval or Disapproval. Unless otherwise provided in this Subsection 050.03, the Director shall notify the applicant in writing of the decision to approve or disapprove a preliminary design report within thirty (30) days after the Department receives all information required by Subsection 050.02. For alternative design proposals submitted under Section 205, the Director shall notify the applicant in writing of the decision for alternative design approval or disapproval within ninety (90) days after the Department receives all information required by Section 205. The time required to review and, if appropriate, approve the preliminary design report shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. Approval of the preliminary design report does not authorize the construction, modification or operation of the cyanidation facility.

051. -- 099. (RESERVED).

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person shall construct a new cyanidation facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a cyanidation facility prior to obtaining a modified permit for such expansion or modification pursuant to Section ~~750~~530. (3-30-06)

02. Permit Application. The owner or proposed operator of a cyanidation facility or the owner's or operator's authorized representative shall: (3-30-06)

a. Make application to the Director in writing and in a manner or form prescribed herein; and (4-11-06)

b. Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. (4-11-06)

03. Contents of Application. A permit application and its contents shall be used to determine if an applicant can locate, construct, operate, maintain, close and monitor the proposed cyanidation facility in conformance with these and other applicable rules including, but not limited to, ~~Idaho Department of Environmental Quality Rules~~; IDAPA 58.01.02, “Water Quality Standards ~~and Wastewater Treatment Requirements~~”; IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems”; IDAPA 58.01.05, “Rules and Standards for Hazardous Waste”; IDAPA 58.01.06, “Solid Waste Management Rules”; ~~and IDAPA 58.01.11, “Ground Water Quality Rule”;~~ and IDAPA 58.01.25, “Rules Regulating the Idaho Pollutant Discharge Elimination System Program.”; ~~Information required~~The application shall include all of the following information; in sufficient detail to allow the Director to make necessary application review decisions concerning ~~design concepts~~ compliance with Sections 200 through 205 as applicable and protection of human health and the environment. (3-30-06) ()

- a. Name, location, and mailing address of the cyanidation facility. (4-11-06)
- b. Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)
- c. Land ownership status of the cyanidation facility (federal, state, private or public). (4-11-06)
- d. Name, mailing address, and phone number of the applicant’s construction and operations manager. (3-30-06)
- e. The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)
- f. The legal description, to the quarter-quarter section, of the location of the proposed cyanidation facility. (3-30-06)
- g. Evidence the applicant is authorized by the Secretary of State to conduct business in the State of Idaho. (3-30-06)
- h. A general description of the operational plans for the cyanidation facility from construction through permanent closure. This description shall include any proposed phases for construction, operations, and permanent closure. (3-30-06)
- i. The design maximum daily throughput of ore through the cyanidation facility and the total projected volume of material to be processed during the life of the operation. (3-30-06)
- j. Cyanidation facility layouts including water management systems designed to segregate storm water from process water. (3-30-06)
- k. A geotechnical evaluation of all process water and process chemical containment systems within the proposed cyanidation facility. (3-30-06)
- l. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the cyanidation facility, identifying and showing the location and extent of the following features: (3-30-06)
 - i. All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches that may be affected by the cyanidation facility; (3-30-06)
 - ii. All process water supply source(s); (1-1-88)

- iii. All public and private drinking water supply source(s) within at least one (1) mile of the cyanidation facility; (4-11-06)
 - iv. Identified floodplain areas (shown on USGS sectional Quadrangle maps); (3-30-06)
 - v. All service roads and public roads; (1-1-88)
 - vi. All buildings and structures within a half (1/2) mile of the cyanidation facility; (4-11-06)
 - vii. All ~~special~~ outstanding resource waters and sensitive resource aquifers within one (1) mile of the cyanidation facility; ~~and~~ (4-11-06)()
 - viii. All Clean Water Act Section 303(d) listed streams, and their listed impairments, within ten (10) miles of the site boundary that may be affected by the cyanidation facility. (3-30-06)
- m.** To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction. (3-30-06)
 - n.** A description of the proposed land application site. The description shall 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. (3-30-06)
 - o.** Siting diagram for land application sites, monitoring wells, lysimeters, surface or ground water discharge sites, or surface water monitoring locations. (3-30-06)
 - p.** A description of measures to protect wildlife that may be affected by the facility. (3-30-06)
 - q.** Proposed post-construction topographic maps. (3-30-06)
 - r.** ~~Engineering Plans and Specifications~~. Engineering plans and specifications for all portions of the cyanidation facility ~~intended to contain, treat, convey or dispose of all process water and pollutants~~ must be submitted to the Department for review and approval. Prior to construction, all cyanidation facility engineering plans and specifications must ~~be signed and stamped by a~~ bear the imprint of an Idaho licensed professional engineer ~~registered in the state of Idaho that is both signed and dated by the engineer~~. These plans and specifications shall, at a minimum, include all of the following where information applicable to the proposed facility: (3-30-06)
 - i. Designs meeting applicable criteria in Sections 200 through 204.
 - ii. Any alternative design approved by the Department under Section 205.
 - iii. The water balance, ore flow and processing calculations demonstrating the logic behind sizing of facilities. (3-30-06)
 - iv. The general ore processing overview and analyses of chemical compatibility of containment materials with process chemicals and wastes, including a chemical mass balance at inputs and outputs from the cyanidation facility. (3-30-06)
 - v. Geotechnical data and analyses demonstrating the logic for plans and specifications of foundation materials and placement. (3-30-06)
 - vi. Requirements for site preparation. (3-30-06)

- vii. Pumping and dewatering requirements. (3-30-06)
- viii. Procedures for materials selection and placement for backfilling foundation areas. (3-30-06)
- ix. Criteria for caps and covers used as source control measures. ()
- ~~viii~~x. Criteria for ensuring ~~slope stabilization~~ stability of embankments for pads, ponds and tailings impoundments. (3-30-06)
- ~~viii~~xi. Procedures to classify and modify, if necessary, excavated fill, bedding and cover materials for buildings, pads, ponds, and tailings impoundment. (3-30-06)
- ~~ix~~ii. Plumbing and conveyance schematics and component specifications. (3-30-06) ()
- xiii. Manufacturers' specifications and warranties for all materials that will or may come in contact with process waters. (3-30-06)
- xiv. Plan views and cross-section drawings of leach pad, permanent heaps, vats, process water storage ponds, tailings ~~ponds~~ impoundments and spent ore disposal areas. (3-30-06) ()
- ~~xiv~~y. Leak detection and collection system plans and specifications including, but not limited to, schematics and narratives describing liner and geotextile material specifications, sumping capacity and layout, location of monitoring port(s), monitoring port components, construction operation and maintenance procedures for monitoring ports and pumping systems, including backup system, triggers for primary and secondary containment repairs, replacement or other contingency mitigation, frequency of monitoring, and monitoring parameters. (3-30-06)
- ~~xiv~~vi. Provisions to protect primary and secondary containment systems from heavy equipment, fires, earthquakes and other natural phenomena. (3-30-06)
- xivvii. Quality ~~control and quality~~ assurance/quality control procedures. (3-30-06)
- xviii. The identity and qualifications of person(s) directly responsible for supervising construction and providing project ~~quality control and~~ quality assurance/quality control. (3-30-06)
- s. Operation and maintenance plans that includes: all of the following. (3-30-06)
 - i. Maintenance plans, including routine service procedures for primary and secondary containment systems, process chemical storage, and disposal of contaminated water or soils, including petroleum-contaminated soils. (3-30-06)
 - ii. A water management plan that provides for handling and containment of process water including the methods to manage and/or treat all process water and pollutants, and run-off or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The plan shall include the basis for impoundment the designed containment volumes and estimations of the need for and operation of a land application site, injection wells, infiltration galleries or leach fields, or the need for an NPDES IPDES permit. The plan shall be updated on a regular basis to reflect the reconciliation of the water balance changes in the project through construction, operation, maintenance, and permanent closure, including modifications to the cyanidation facility. (3-30-06) ()
 - iii. A proposed water quality monitoring plan ~~that meets the requirements of Subsection 200.08~~. (3-30-06) ()

iv. An emergency and spill response plan that describes procedures and methods to be implemented for the abatement and clean up of any pollutant that may be discharged from the cyanidation facility during use, handling or disposal of processing chemicals, petrochemicals and/or fuels, and any other deleterious materials. (3-30-06)

v. A seasonal/temporary closure plan, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of process chemicals. (3-30-06)

t. **Permanent Closure Plan.** The permanent closure plan ~~may shall~~ be the same as the plan submitted to the Idaho Department of Lands, pursuant to the Idaho ~~Surface Mining Mined Land Reclamation~~ Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. ~~The permanent closure plan shall:~~ (4-11-06)

u. Characterization of pollutants contained in or released from the cyanidation facility, including the potential for the pollutants to cause degradation of waters of the state.

~~i. Identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long term care and maintenance of the cyanidation facility. (3-30-06)~~

~~ii. Include a time line showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the permittee shall be responsible for post closure activities. (3-30-06)~~

~~iii. Provide the objectives, methods and procedures, that will achieve neutralization of process waters and material stabilization during the closure period and through post closure. (4-11-06)~~

~~iv. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post closure period. (4-11-06)~~

~~v. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post closure period, a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (4-11-06)~~

~~vi. Provide proposed post construction topographic maps and sealed cross sections showing the configuration of the final heap or tailing facility, including final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to issuance of a final permit, engineering plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. (3-30-06)~~

~~vii. Include monitoring plans for surface and ground water during closure and post closure periods adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and requirements of these rules. (4-11-06)~~

~~viii. Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for land application and provide a mitigation plan as appropriate. (4-11-06)~~

~~ix. Provide information on how the permittee will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; the Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure. (3-30-06)~~

x. Provide sufficient detail to allow the permittee to prepare an estimate of the reasonable cost for the state of Idaho to hire a third party to implement the closure plan. (3-30-06)

u. The application shall be accompanied by a fee pursuant to Subsection 100.05. (3-30-06)

~~04. Application for a Small Cyanidation Processing Facility and Pilot Facility. The owner or proposed operator of a small cyanidation processing facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small cyanidation processing facility or a pilot facility. The application shall include an explanation as to why the proposed small cyanidation processing facility qualifies as a small cyanidation processing facility or a pilot facility. The application must provide the information, plans and specifications identified in Subsection 100.03. (3-30-06)~~

~~0504. Permit Application Fees **Cost Recovery Agreement**. (3-30-06)~~

~~a. The application shall be accompanied by a fee as described below: (3-30-06)~~

~~i. Five thousand dollars (\$5,000) for a pilot facility; (3-30-06)~~

~~ii. Ten thousand dollars (\$10,000) for a small cyanidation processing facility; (3-30-06)~~

~~iii. Twenty thousand dollars (\$20,000) for a cyanidation facility that is neither a pilot facility nor a small cyanidation processing facility; or (3-30-06)~~

~~iv. In lieu of paying a fee at the time the application is submitted, **Prior to submittal of the conceptual-preliminary design report**, an applicant ~~may shall~~ enter into an agreement with the Department for actual costs incurred to **review the Conceptual-preliminary Design Report and other submittals**, process **an the permit** application **or any permit modification request**, ~~and~~ issue a final permit, **and facilitate compliance with permit conditions through final closure of the facility**. ~~The applicant shall not commence operations at Final closure of~~ the cyanidation facility **will not be approved** until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred ~~for the permitting process~~. (3-30-06)~~

~~b. Completeness of an application is contingent upon one (1) of the following: (3-30-06)~~

~~i. Submission of the applicable fees as described in Subsections 100.05.a.i. through 100.05.a.iii.; or (3-30-06)~~

~~ii. The applicant enters into an agreement with the Department as described in Subsection 100.05.a.iv. (3-30-06)~~

~~05. Enforcement Action. Nothing in Subsection 100.04 (Permit Fees) waives the Department's right to undertake a non-fee related enforcement action at any time, including seeking penalties, as provided in Sections 39-108, 39-109, and 39-117, Idaho Code.~~

~~06. Exemptions to Fees. Requests made by the Department to the permittee for any permit modifications shall not be subject to application fees set forth in Subsection 100.05. Requests by the permittee for minor modifications to a permit shall not be subject to application fees set forth in Subsection 100.05. (3-30-06)~~

101. -- 199. (RESERVED).

200. REQUIREMENTS FOR WATER QUALITY PROTECTION.

The following design and performance standards are intended as the minimum criteria for protection of public health and the waters of the state. These standards shall apply to all facilities unless the Department determines that other site-specific criteria, **including an alternative design approved under Section 205**, are appropriate to protect water quality and the public health. (3-30-06)

01. Professional Engineer. Plans and specifications for construction, alteration or expansion of any cyanidation facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer.

02. Cyanidation Facilities Siting and Preparation. All cyanidation facilities including, but not limited to, the process building, laboratories, process chemical storage and containment facilities, plumbing fixtures that support process water, untreated or treated process water ponds, tailings impoundments, ore stock piles, and spent ore disposal areas must be appropriately sited and prepared for construction. Siting criteria must ensure that, at a minimum, the facilities are structurally sound and that primary and secondary containment systems can be adequately protected against factors such as wild fires, floods, land-slides, surface and ground water systems, storm water run-on, erosion, migrating stream channels, high ground water table, equipment operation, subsidence of underground workings, public access and public activities. All sites must be properly prepared prior to construction of foundations and facilities. Vegetation, roots, brush, large woody debris and other deleterious materials, top soil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction and long term stability, must be removed from the footprint of the cyanidation facility unless approved by the Department. (3-30-06)

023. Process Water Storage Sizing Criteria. All aspects of the cyanidation facility that entrain, utilize, treat, discharge, pump, convey, or otherwise contain process water, treated process water or run-off water from any portion of the cyanidation facility and pollutants shall be included in the water balance. The water balance shall include process water ponds, treated process water ponds, tailing impoundments, and water conveyance systems. The engineered containment criteria for each pond, tailings impoundment, and leach pad and ditch conveying process water shall be incorporated into the water balance and must be designed to maintain a minimum two (2) foot freeboard at all times. Leach pad design must include sufficient capacity for maximum expected operating flows plus storm flows from the design climatic event. Where appropriate, leach pad perimeter containment calculations should include the potential for drainage constrictions, including constrictions due to talus or washouts at the ore pile toe. Ore pile setbacks from the leach pad perimeter should be calculated based on local climatic conditions, ore properties, and site specific operating conditions. At a minimum, a cyanidation facility shall be designed to contain the maximum expected normal operating water balance and the volume of run-on and/run-off water associated with a climatic event that has a frequency of occurrence of one (1) year in one hundred (100) years or one percent (1%). Snowmelt events and wave run-up shall be considered in determining the containment capacity. Contingency plans for managing excesses of process all waters included as part of the water balance shall be described in the water management strategy. Each structure designed to contain process water or process contaminated water impoundment design must include a spillway, means of passing excess water unless otherwise approved by the Department. (3-30-06)

034. Minimum Plans and Specifications for Impoundments, Leach Pads and Other All Facilities Designed to Contain Process Water. Engineering plans and specifications, which are signed and stamped by a professional engineer registered in the state of Idaho, must be approved and included in the final permit issued by the Department prior to construction of cyanidation facilities that are designed to contain process waters. The plans and specifications must provide for: Unless the Department approves an alternative design under Section 205, the plans and specifications for any portion of a cyanidation facility that will contain process water must satisfy the applicable general design criteria in Subsection 200.04 and the design criteria in Sections 201 through 204 for the type of facility receiving process water. These provisions establish minimum pollutant control technologies and define the site and operating conditions that must be evaluated. Based on site characterization, best engineering judgment will be applied to determine the degree to which designs must provide more or less protection through engineered containment. (3-30-06)

a. General design criteria include all of the following: ()

i. Cyanidation facilities must be designed to minimize releases of pollutants into ground water or subsurface migration pathways so that any release will not cause unauthorized degradation of waters of the state. ()

ii. The design of the process components must take into consideration the proposed range of operating conditions for each component and the history of seismic events at the site in order to preclude any differential movement or shifting of the subgrade, ~~subbase soil layer~~, liner or contained material that endangers ~~primary or secondary~~ containment integrity. ()

iii. Additional containment of process water may be required in areas where ground water is considered to be near the surface. Ground water is considered to be near the surface if: ()

a) The depth from the surface to ground water is less than one hundred (100) feet and the top one hundred (100) feet of the existing formation has a ~~coefficient of permeability hydraulic conductivity~~ greater than 1×10^{-5} cm/sec; ()

b) Open fractured or faulted geologic conditions exist in the bedrock from the surface to the ground water; or ()

c) There is an inability to document that all borings beneath the site have been adequately abandoned. ()

iv. No new process component containing process water may be located within one thousand (1,000) feet of any dwelling that is occupied at least part of the year and not owned by the permittee. This restriction does not apply to modifications at a facility that predates such a dwelling. ()

v. Wildlife shall be excluded from contact with process water having a WAD cyanide concentration in liquid fraction exceeding fifty (50) mg/L. The Department may require additional measures if wildlife mortality is observed.

vi. Implement measures to protect birds, other wildlife and livestock from adverse effects of cyanide process water and other pollutants.

vii. A quality assurance/quality control plan must be developed and carried out for the construction of containment systems.

b. General liner design criteria include all of the following: ()

i. A structurally stable subgrade for the overlying components and ~~wastes contained material~~. The subgrade should be constructed to resist consolidation, excessive differential settlement that compromises liner performance, and uplift resulting from pressures inside or outside the containment unit to prevent distortion of overlying components. ~~The prepared subgrade shall be accepted by the owner prior to construction of overlying components.~~

ii. A smooth rolled and compacted soil layer, or equivalent layer approved by the Department, in intimate contact with the overlying ~~synthetic geomembrane~~ liner. The soil layer shall have a minimum thickness of twenty-four (24) inches compacted to ninety-five percent (95%) of maximum dry density according to Standard Proctor Test ASTM D698 or Modified Proctor Test ASTM D1557. The soil layer must be placed in a minimum of four (4) lifts that each have a compacted thickness of six (6) inches and a ~~coefficient of permeability hydraulic conductivity~~ less than or equal to 10^{-6} cm/sec. The ~~subbase soil layer~~ shall be free of putrescible, frozen or other deleterious materials. The upper lift of soil shall not contain particles in excess of point seven five (0.75) inches (nineteen (19) mm) in largest dimension; provided larger particles may be allowed if consistent with the manufacturer's specifications for the overlying liner and approved by the Department. Angular, sharp material is not allowed regardless of diameter. This layer shall be placed within two percent (2%) of optimum moisture content to achieve ~~the~~ specified compaction and ~~permeability criteria~~ ~~hydraulic conductivity~~. The prepared ~~subbase soil layer~~ shall be accepted by the owner prior to construction of overlying components.

iii. An equivalent layer replacing the soil layer described in Subsection 200.04.b.ii. must include the following:

a. A layer that is not a geomembrane and has a liquid flow rate no greater than that of twenty-four (24) inches of compact soil with a hydraulic conductivity less than or equal to 10^{-6} cm/sec;

b. Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste, process water, or process contaminated water to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

c. Constructed of materials that provide appropriate shear resistance of the upper and lower component interface to prevent sliding of the upper component including on slopes; and

d. Certification from a qualified Idaho licensed professional engineer that the liquid flow rate through the equivalent layer is no greater than the liquid flow rate through two (2) feet of compacted soil with a hydraulic conductivity less than or equal to 10^{-6} cm/sec. The hydraulic conductivity of any alternative to the two (2) feet of compacted soil must be determined using recognized and generally accepted methods.

iii.iv. Synthetic-Geomembrane liners consisting of high-density polyethylene (HDPE), linear low-density polyethylene (LLDPE), or equivalent, must be rated as having a resistance to the passage of process water equal to or less than a hydraulic conductivity of 1×10^{-11} cm/sec. Synthetic Each geomembrane liners shall be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation and permanent closure.

()

iv. All primary and secondary liner systems must be constructed according to manufacturers' standards, or Department-approved design standards, and protect against damage from cracking, sun exposure, ice, frost penetration or heaving, wildlife, wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities.

()

vi. An appropriate coefficient of friction against sliding plus a factor of safety for each interface constructed on a slope.

()

vii. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining systems.

()

viii. Redundant systems available if there are failures in primary power or pumping systems.

()

ix. The Department shall review for completeness the applicant's evaluation of the following design parameters and performance for a liner where applicable to the proposed facility:

()

a) The type and adequacy of subgrade, slope and stability;

()

b) The provisions for over-liner protection and provisions for hydraulic head relief;

()

c) The load and means of applying load;

()

d) The compatibility of a liner with process solutions;

()

e) The adequacy and performance of the leak detection and collection systems;

()

f) The depth from the surface to all ground water; and

()

~~g) The liner's ability to remain functionally competent until permanent closure has been completed. ()~~

~~x. All liner material shall meet the manufacturer's quality assurance/quality control performance specifications.~~

~~a. A prepared subbase of compacted soil, which shall be a minimum of twelve (12) inches thick. The soil must be compacted to ninety five percent (95%) of Standard Proctor Test ASTM 698 or ninety five percent (95%) of Modified Proctor Test ASTM 1557. The compacted soil layers must be placed in a minimum of two (2) lifts; (3-30-06)~~

~~b. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials; (3-30-06)~~

~~c. Primary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (2.0 mm) consisting of high density polyethylene (HDPE) material and a maximum coefficient of permeability of 10^{-11} cm/sec, or comparable liners approved by the Department; (3-30-06)~~

~~d. A final smoothed and compacted soil layer, which shall not contain particles in excess of point seven five (0.75) inches (nineteen (19) mm) in diameter and have a maximum coefficient of permeability of 10^{-6} cm/sec, or comparable liners approved by the Department; (3-30-06)~~

~~e. Primary and secondary liner systems, which shall be constructed according to manufacturers' standards, or Department approved design standards, and which must protect against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities; (3-30-06) ()~~

~~f. Compacted clay liners (CCLs), which shall be placed within two percent (2%) of optimum moisture content for the CCL to achieve specified compaction and permeability criteria; (3-30-06)~~

~~g. An appropriate interface friction strength plus a factor of safety when either a geosynthetic clay liner (GCL) or CCL is used with a geomembrane liner on a slope; (3-30-06)~~

~~h. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining systems of heap leach pads and ponds; (3-30-06)~~

~~i. Redundant systems, which shall be available if there are failures in primary power and/or pumping systems; and (3-30-06)~~

~~j. Procedures for loading ore onto the leach pads which will minimize tensile stresses in the primary and secondary containment liners that may result in failure of the liners; and. (3-30-06)~~

~~k. Leak detection and collection systems, which shall be designed and installed for all facilities, or portions thereof, where process waters may place an average of twelve (12) inches or greater of hydraulic head pressure on primary containment. The engineering plans and specifications shall: (3-30-06)~~

~~i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all process water that passes through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; (3-30-06)~~

~~ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of process waters from the layer placed between primary and secondary containment synthetic liners.~~

~~The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; (3-30-06)~~

~~iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; (3-30-06)~~

~~iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems; and (3-30-06)~~

~~v. Provide secondary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (two (2.0) mm) consisting of HDPE and a maximum coefficient of permeability of 10^{-11} cm/sec, or comparable liners approved by the Department. (3-30-06)~~

045. Process Buildings, Process Chemical Storage Containment Areas and General Facility Criteria. Storage, handling and use of all process chemicals, process wastes, process water and pollutants associated with the cyanidation facility must be conducted within a clean, safe and secure work space to prevent unauthorized discharges to soils, ground water or surface water. The plans and specifications must contain sufficient detail, including pump capacity and plumbing for evacuation of collection sumps, triggering systems for sump evacuation, and monitoring and reporting requirements. ~~Plans and specifications must be submitted with the application for the Department's review and approval. Prior to construction, plans and specifications for the process buildings and auxiliary facilities, including process chemical storage and containment facilities and laboratories, must be signed and stamped by a professional engineer registered in the state of Idaho.~~ Where appropriate, these plans and specifications must provide for: (3-30-06)

- a. Structural integrity of the foundation, walls and roof for process and process chemical storage buildings; (3-30-06)
- b. Restriction of public access; (3-30-06)
- c. Protection of wildlife; (3-30-06)
- d. Internal sumps and spill cleanup plans; (3-30-06)
- e. Grouted and sealed concrete stemmed walls and floors in the process buildings and process chemical storage and containment facilities; (3-30-06)
- f. Vapor barriers and frost protection; (3-30-06)
- g. Segregation of process chemicals according to compatibility; (3-30-06)
- h. Communication systems; (3-30-06)
- i. Fire suppression systems, internal and external; and (3-30-06)
- j. Quality assurance ~~and~~ quality control for construction activities and construction materials. (3-30-06)

056. Cap and Cover Criteria. Caps and covers used as source control measures for facilities must be designed and constructed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Caps and covers designed for permanent closure must demonstrate permanence applicable to the permittee's designed and approved permanent closure plan. ~~Prior to issuance of a final permit, engineering plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho.~~ (3-30-06)

067. Plumbing and Conveyance Criteria. ~~Engineering plans and specifications must be submitted to the Department for review and approval.~~ Plumbing and conveyance systems shall be structurally sound and chemically compatible with the materials being conveyed; shall provide adequate ~~primary and secondary~~ containment; and shall be protected against heat, cold, mechanical failures, impacts, fires, and other factors which may cause breakage and result in unauthorized discharges. ~~Prior to construction, engineering plans and specifications of all conveyances of materials containing process water must be signed and stamped by a professional engineer registered in the state of Idaho.~~ (3-30-06)

078. Operation and Maintenance Plans. Operation and maintenance plans must be submitted to the Department for review and approval. Operation and maintenance plans must include, but are not limited to: (3-30-06)

a. An overall plan that includes techniques for evaluating the integrity and performance of all ~~primary and secondary~~ containment systems; (3-30-06)

b. Schedule for inspections of all ~~primary and secondary~~ containment systems; (3-30-06)

c. Schedule for inspections on piping and conveyance systems that carry process water; ~~and~~ (3-30-06)

d. Response plans that detail specific actions that will result in mitigation of compromised or damaged containment systems; ~~and~~ (3-30-06)

e. Response plans that detail specific thresholds identified under Subsection 200.09, the locations and frequency at which the thresholds will be monitored, and actions that will result in mitigation of an exceedance of any threshold.

089. Water Quality Monitoring and Reporting. The water quality monitoring plan submitted with the application shall be reviewed and, if appropriate, approved by the Department. The approved water quality monitoring plan shall: (3-30-06)

a. Provide for physical, chemical and biological monitoring, including measurements of surface water flow ~~measurements~~, wildlife and bird mortality, and aquatic indicator species in potentially affected surface and ground water, as appropriate; (3-30-06)

b. Provide for sampling locations and frequency; (3-30-06)

c. Provide an assessment of the existing surface and ground water conditions prior to construction of the proposed cyanidation facility; (3-30-06)

d. Be site specific and dependent on location, design and operation of the cyanidation facilities included in the overall operating plan; (3-30-06)

e. Specify compliance points and associated water quality compliance criteria; (3-30-06)

f. Specify monitoring points and threshold concentrations that will provide for early detection of discharges of pollutants; (3-30-06)

g. Provide analytical methods and method detection limits for chemical analysis used in the determination of water quality; (3-30-06)

h. Provide a quality assurance/quality control plan for data collection and analysis. (3-30-06)

i. Provide for appropriate and timely analytical data analyses including evaluations of water quality and quantity trends; (3-30-06)

j. Provide an annual environmental monitoring and data analysis report of water quality and quantity trends; (3-30-06)

k. Provide for the reporting and re-sampling of monitoring locations where detectable and statistically significant changes in water quality are found. The permittee shall propose a statistical method to determine the significance of the changes in water quality; and (3-30-06)

l. Provide for anticipated changes or modifications to monitoring plans, which may be the result of a phased approach to cyanidation facility construction, operations and permanent closure. (3-30-06)

0910. Monitoring Wells Siting and Construction Plans. The applicant is encouraged to submit a report describing the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization preapplication meeting. A monitoring well siting and construction plan shall be provided upon submittal of the conceptual preliminary design report under Subsection 050.042. (3-30-06)

a. Monitoring well siting and construction plans shall provide for:

i. A quality assurance/quality control plan for well construction.

ii. ~~a~~ A minimum of three (3) monitoring wells. One (1) shall be located up gradient and two (2) shall be located down gradient of primary components of the cyanidation facility to determine ground water flow direction. (3-30-06)

b. Siting and planning for additional wells or replacement wells may be required in the permit application and final permit. Specifically, additional wells may be required for: (3-30-06)

i. Large areas with multiple potential sources for pollutants; (3-30-06)

ii. Areas with complex geology, fractured bedrock; and (3-30-06)

iii. Areas with insufficient background hydrogeology. (3-30-06)

c. All monitoring well construction must also conform to the well construction rules listed in IDAPA 37.03.09, "Well Construction Standards Rules"; (3-30-06)

d. Record diagrams ~~along with~~ including well construction details, well elevation and a detailed geologic log shall be provided to the Department for each monitoring well. (3-30-06)

101. Land Application. ~~Prior to issuance of a final permit, plans and specifications for the construction or modification of land application of process water disposal systems shall be submitted to and approved by the Department. All plans and specifications for the construction, operation and closure of land application or other waste treatment or disposal facilities or modification must be signed and stamped by a registered professional engineer licensed in the state of Idaho.~~ Plans and specifications shall include: (3-30-06)

a. An operation and maintenance plan including: (3-30-06)

i. Water balance for the land application site; (3-30-06)

ii. Pretreatment requirements and procedures; (3-30-06)

iii. Operating season for land application; (3-30-06)

iv. Seasonal closeout procedures; (3-30-06)

- v. Special soils or vegetative amendments: ~~(3-30-06)~~
- vi. Storm water run-on/run-off controls: ~~(3-30-06)~~
- vii. Best management practices for all areas impacted by the land application system: ~~and~~ ~~(3-30-06)~~
- viii. A topographic map of the land application site and adjacent affected areas, of sufficient scale to facilitate site-specific analysis of soils, vegetation, surface water and ground water: ~~(3-30-06)~~
- b. Chemical, physical, and volumetric characteristics of the ~~process water material~~ to be land applied: ~~(3-30-06)~~
- c. A complete description of the chemical and physical characteristics of the soils and applicable geology of the land application site: ~~(3-30-06)~~
- d. Methods of process water treatment, distribution and disposal: ~~(3-30-06)~~
- e. Hydraulic loading capacity of the soils: ~~(3-30-06)~~
- f. Constituent loading capacity of the site: ~~(3-30-06)~~
- g. Attenuation capacity of the vegetative covers and soils: ~~(3-30-06)~~
- h. Evapotranspiration capacity of the site: ~~(3-30-06)~~
- i. Testing and analytical procedures for water quality and soils samples prior to, during, and following the land application process: ~~(3-30-06)~~
- j. Trend analysis of the constituent loading in the affected soils, vegetation and water quality of the affected surface or ground water systems: ~~(3-30-06)~~
- k. Reporting requirements including both frequency and form: ~~and~~ ~~(3-30-06)~~
- l. Standby power and pumps sufficient to maintain all treatment and distribution works. ~~(3-30-06)~~

142. Temporary or Seasonal Closure. Temporary and seasonal closure plans for the entire cyanidation facility must be submitted by an applicant to the Department for review and approval prior to issuance of a final permit. Temporary and seasonal closure plans may, subject to Department approval pursuant to Section ~~750530~~, be modified to provide for changes in operating conditions of the facilities and must incorporate a water management plan for the period of inactivity as well as during shut down and reactivation. ~~(3-30-06)~~

a. Prior to seasonal closure, process buildings, process chemical storage, process water ponds, tailings ~~ponds~~ ~~impoundments~~, spent ore disposal areas and other ancillary facilities must be stabilized and/or conditioned to prevent any emergency or unauthorized discharges to surface or ground water. ~~(3-30-06)~~

b. Subsequent to seasonal closure, process buildings, process chemical storage, process water ponds, tailings ~~ponds~~ ~~impoundments~~, spent ore disposal areas and other ancillary facilities must be maintained to prevent any emergency or unauthorized discharges to surface or ground water. Cyanidation facilities shall be conditioned and maintained to provide: ~~(3-30-06)~~

i. Material stabilization for all solids affected by process water: ~~(3-30-06)~~

- ii. Optimum freeboard in all ponds, as dictated by the water management plan; (3-30-06)
- iii. Fully functional power and pumping systems that are ready for use; both power and pumps shall have incorporated redundant systems to allow for failure of either power or a pumping system. A failed power supply or pump is not an acceptable reason for an unauthorized discharge; (3-30-06)
- iv. Protection of all ~~primary and secondary~~ containment; and (3-30-06)
- v. Sufficient availability of qualified staff to restrict public access, fully implement the water quality monitoring plan, and initiate the emergency and spill response plan. (3-30-06)

123. Employee Education Program. Operators and staff of facilities must be properly oriented and trained to operate, maintain and protect ~~primary and secondary~~ containment systems; waste disposal and discharge systems; and to implement monitoring and emergency and spill response plans. An applicant must submit an employee orientation and continuing training plan to the Department for review prior to issuance of a final permit. The plan must provide the format and contents for training, the general qualifications of the person(s) responsible for training and testing, and the person(s) or positions which should receive such training. (3-30-06)

201. DESIGN CRITERIA FOR LEACH PADS AND OTHER NONIMPOUNDING SURFACES DESIGNED TO CONTAIN AND PROMOTE HORIZONTAL FLOW OF PROCESS WATER.

Plans and specification for leach pads and other nonimpounding surfaces that are designed to contain, not impound, process water and to promote the horizontal flow of process water must provide for all of the following: ()

01. Minimal Hydraulic Head. Process water shall be limited to twelve (12) inches or less hydraulic head pressure on ~~the primary containment~~ liners systems. ()

02. Engineered Liner System. In addition to meeting the general liner requirements in Subsection 200.04.b, the engineered liner system plans and specifications must provide for ~~primary containment synthetic geomembrane~~ liners that have a minimum thickness of eighty (80) milli-inches (2.0 mm) or equivalent liners approved by the Department.

03. If leach pads or other non-impounding surfaces are located above areas where ground water is considered near the surface pursuant to Section 200.04.a.~~viii~~, the Department may require a liner system with a higher level of engineered containment. ()

04. When a material or system that provides hydraulic relief is installed, beneath a single liner, including, but not limited to, sand, french drains and geotextiles, regardless of the intent of its design, it must function as a leak detection system and include a means for recovering process water. ()

05. Depending on the methods and materials used for their construction, the Department may require all open channels that routinely transport process water to be traced by a leak detection system. ()

06. Procedures for loading ore onto the leach pads that minimize tensile stresses in the containment liners that may result in failure of the liners. ()

07. Monitoring points that will provide for early detection of any discharge.

202. DESIGN CRITERIA FOR PROCESS PONDS.

The plans and specifications for ponds designed to contain process water must provide for all of the following:

01. Engineered Liner System. In addition to meeting the general liner requirements in Section 200.04.b, the engineered liner system plans and specifications must provide for all of the following:

a. ~~Primary Lower containment synthetic geomembrane~~ liners that have a minimum thickness of eighty (80) milli-inches (2.0 mm) or equivalent liners approved by the Department. ()

b. Leak detection and collection system that provides material between ~~the primary lower geomembrane liner and the secondary upper containment liners system~~ to collect, transport and remove all process water that passes through the ~~primary upper containment~~ liner at such a rate as to prevent hydraulic head from developing on the ~~secondary lower containment geomembrane~~ liner to the level at which it may be reasonably expected to result in leaks through the ~~secondary lower containment synthetic liner system~~. ()

c. ~~Secondary containment Upper synthetic geomembrane~~ liners that have a minimum thickness of eighty (80) milli-inches (two (2.0) mm) or equivalent liners approved by the Department. ()

d. ~~Provide R~~outines and schedules for the evaluation of the efficiency and effectiveness of the removal of process water from the leak collection system. The properly working system shall continually relieve head pressures on the ~~secondary lower containment geomembrane synthetic~~ liner. ()

e. Monitoring points that will provide for early detection of any discharge.

f. ~~Provide S~~pecific triggers for maintenance routines to address inadequate performance of ~~primary or secondary containment synthetic liners systems~~. ()

g. Specify operation and maintenance procedures to address inadequate performance of ~~primary and secondary~~ containment or leak detection and collection systems. ()

02. Ponds primarily designed to contain excess quantities of process water for limited periods as a result of storm events may be constructed with a single liner if approved by the Department. ()

203. DESIGN CRITERIA FOR VATS, TANKS AND OTHER CONTAINERS THAT CONFINE PROCESS WATER

Vats, tanks and other containers that confine process water and can be inspected for leaks visually do not require double liners if an area for secondary containment equal to one hundred ten percent (110%) of the largest container is provided. Vats, tanks or other containers that are partially buried and cannot be visually inspected must have a system providing secondary containment and leak detection. ()

204. DESIGN CRITERIA FOR TAILINGS IMPOUNDMENTS

The plans and specifications for tailings impoundments designed to contain process water must provide for:

01. **Engineered Liner System.** In addition to meeting the general liner requirements in Subsection 200.04.b, the engineered liner system plans and specifications must provide for:

a. ~~Primary containment Geomembrane synthetic~~ liners that have a minimum thickness of sixty (60) milli-inches (1.5 mm) or equivalent liners approved by the Department; and ()

b. A system designed to minimize hydraulic head on the ~~primary containment geomembrane~~ liner ~~to twelve (12) inches or less~~. ()

c. Monitoring points that will provide for early detection of discharges of pollutants.

02. **Enhanced Containment Criteria.** An enhanced level of containment may be required by the Department for all of the tailings impoundment or for a portion thereof after considering the following factors: ()

a. The anticipated characteristics of the material to be deposited; ()

b. The characteristics of the soil and geology of the site; ()

- c. The degree to which the hydraulic head on the ~~impoundment~~ liner is minimized; ()
- d. The extent of and methods used for recycling or neutralizing process water; ()
- e. Area and volume of process water; ()
- f. The depth from the surface to all ground water; and ()
- g. The methods employed in depositing the impounded material. ()

03. Tailings Treatment. Tailings impoundments are restricted to a maximum of fifty (50) mg/L WAD cyanide concentration in the liquid fraction unless otherwise approved by the Department.

205. ALTERNATIVE PLANS AND SPECIFICATIONS FOR FACILITIES DESIGNED TO CONTAIN PROCESS WATER

An applicant may propose an alternative to the requirements identified in Sections 200.04, 201, 202, 203, or 204 based on site-specific conditions and best management practices to protect water quality and human health. All other requirements in Section 200 apply to alternative design proposals. ()

01. Alternative Design Proposal. The applicant must demonstrate that the alternative design ~~proposal~~ will protect water quality and human health by confirming that the alternative to the minimum design criteria is appropriate based on the WAD cyanide concentration and chemical characteristics of materials contained; the physical characteristics of the materials contained; site-specific soil, geology, hydrology, and hydrogeology characteristics; degree to which hydraulic head on the ~~impoundment~~ liner is minimized; ~~impoundment~~ area and volume of the facility; depth to ground water; methods employed in depositing the impounded material; potential for leaks and impacts to water quality; and risk to human health and the environment. The alternative design ~~proposal~~ must provide an evaluation based on site-specific ~~ed~~ data, supported by best available science, and consistent with best management practices demonstrating that process water and process-contaminated water are ~~safely contained and controlled and or treated as necessary to protect public safety and the environment, prevent unauthorized degradation of waters of the state, and achieve all applicable water quality and ground water quality standards to not interfere with the beneficial uses of the waters of the state, not endanger public safety or the environment, and achieve all applicable water quality and ground water quality standards.~~ The alternative design ~~proposal~~ must, ~~at a minimum,~~ include all applicable elements listed below: ()

a. An ~~hydrogeology~~ assessment of site characteristics including depth to ground water; distance to surface water; hydrogeology and stratigraphy of the site; ground water and surface water interaction; and the quality, characteristics and existing and future beneficial uses of ground water and surface water that may be potentially affected by the ~~proposed~~ facility; ()

b. An engineering assessment ~~including proposed detailing the~~ design of each component of the containment system, including type and thickness of each component of the liner ~~system and base~~; types of materials to be used and methods of placement of those materials; structures, devices and techniques for controlling drainage and minimizing solution loss; and method to control internal hydraulic head ~~and a system to detect and monitor leaks~~; and ()

c. A water quality assessment providing an analysis of potential for the facility to cause degradation of waters of the state including the effect of ground water and surface water interactions, the potential for process water to reach waters of the state, and the potential impact of process water on waters of the state. ()

02. Conceptual Preliminary Design Submittal. Alternative design proposals shall be provided to the Department ~~during upon~~ submittal of ~~Conceptual the preliminary dDesign Approval report required in (Section 050.) and evaluated for approval or disapproval under Subsection 050.02.~~ ()

03. Department Review. In evaluating alternative design proposals, the Department shall consider the WAD cyanide concentration and other materials contained in facilities receiving process water, site hydrogeology, advances in liner technology, alternative designs implemented at other facilities receiving process water, and other site-specific factors in determining if an ~~proposed~~ alternative is appropriate to protect water quality and the public health. ()

04. Cost Recovery Agreement. As provided in Subsection 100.04, the applicant shall enter into an agreement with the Department for actual costs incurred to process an alternative design proposal under this subsection. The Department may utilize a third-party to support Department review of the alternative design proposal. ()

206 -- 299. (RESERVED).

300. APPLICATION PROCESSING PROCEDURE.

~~**01. Application Processing Time Line for Director's Final Decision.** A chart illustrating the application processing time line is located in Appendix A of these rules. (3-30-06)~~

021. Completeness Review. Within thirty (30) days of receipt of an application, the ~~Department Director~~ will issue a written notice to the applicant and the Idaho Department of Lands, indicating: (3-30-06)

a. ~~That t~~he application is complete; or (3-30-06)

b. ~~That t~~he ~~Department is rejecting the~~ application ~~as is~~ incomplete ~~and shall provide a list of, specific~~ deficiencies, ~~and additional required information.~~ ~~Upon determination that the application is incomplete, the Department shall refund one half (1/2) of the application fee.~~ (3-30-06)

032. Accuracy and Protectiveness Review. Within sixty (60) days of receipt of an application and upon determination by the Department that the application is complete, the Department will review the application for accuracy and protectiveness based on these and other applicable rules including, but not limited to, IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements,~~" and IDAPA 58.01.11, "Ground Water Quality Rule.": (3-30-06)

~~**043. Notice of Intent to Deny the Permit Application or to Draft a Permit-Permit Application Rejection.** Within sixty (60) days of receipt of an application for a new permit or to modify an existing permit, the Director shall: (3-30-06)~~

a. ~~Provide public notice of intent to deny the permit application; or If the Director decides to reject an application under subsection 300.03.b, the Director shall provide public notice within sixty (60) days after receipt of the application. Such notice shall be in writing and explain the basis for the rejection. Rejection of an application terminates the processing of that application regardless of any subsequent appeal.~~ (3-30-06)

b. ~~Provide public notice that the Director has determined that the application is complete and the Director intends to draft a permit, is seeking public comment, and will hold at least one (1) public meeting on the draft permit in accordance with Section 400. A complete permit application shall be rejected if:~~

i. ~~The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or~~

ii. ~~Any payment required by the cost recovery agreement under subsection 100.04 is due and unpaid.~~

~~**05. Basis for Permit Application Denial.** The Director shall deny a permit application if: (3-30-06)~~

- ~~a.~~ The application is inaccurate or incomplete; (1-1-88)
- ~~b.~~ The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or (3-30-06)
- ~~c.~~ The applicant has not submitted the appropriate fees. (3-30-06)

04. Draft Permit and Fact Sheet.

a. If the Director decides to prepare a draft permit or draft major permit modification, the draft shall contain the following information:

- i.** All conditions based on Sections 200 through 204;
- ii** All conditions for an approved alternative under Section 205;
- iii.** All conditions under Section 500;
- iv.** Any information incorporated into the draft permit by reference; and
- v.** Any other condition the Director finds appropriate to protect water quality and public health.

06. Permit Fact Sheet.

b. A fact sheet shall accompany the draft permit. The Director shall prepare a fact sheet shall, for each denial or draft permit, which briefly states the principal facts and the significant legal and policy questions considered in the Director's decision draft permit. The fact sheet shall include, when applicable: (3-30-06)

ai. A brief description of the proposed cyanidation facility and the operating plan described in the application or permit modification request; (4-11-06)

bii. A brief summary of the basis for the decision conditions on the draft permit, including references to applicable requirements and supporting materials statutes or regulations and appropriate supporting references to the administrative record; (1-1-88)

eiii. Reasons why any requested for the Director's proposed decision on any permit conditions or alternatives to required standards do or do not appear justified requested by the applicant; and (1-1-88)

div. The name and phone number of the agency representative to contact for additional information. (1-1-88)

301. -- 399. (RESERVED).

400. PUBLIC INVOLVEMENT IN PERMIT PROCEDURES NOTICE AND COMMENT.

01. Public Notice of Permit Actions. No public notice is required when a request for a permit modification is denied. The Director shall give public notice of: (3-30-06)

a. Receipt of an application for a permit; (1-1-88)

b. Any scheduled public meeting schedule; (1-1-88)

c. Issuance of a draft permit and fact sheet or a decision to deny the an application for a permit; and (3-30-06)

- d. An appeal that has been filed. (3-30-06)

02. Public Notice Information. A public notice issued under this section must contain at least the following information:

a. All public notices shall contain the name Name and address of the Department's office processing the permit action, ~~where the application and draft permit will be available for public review, and a brief description of the public involvement procedures.~~ for which notice is being given and where comments may be submitted if comments are requested for such action: (1-1-88)

b. Name and address of the applicant and, if different, of the facility or activity regulated by the permit;

c. Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet, and the application or permit modification request;

d. Directions to the Department's website where interested parties can obtain copies of the draft permit, fact sheet, and the application or permit modification request, if any;

e. A general description of the location of the cyanidation facility proposed in the application or modification request; and

f. In the case of a draft permit or draft major permit modification, a description of the procedures for reaching a final decision, including:

i. The beginning and ending dates of the comment period under Subsection 400.06 and the address where comments should be submitted;

ii. The date, time, and location of the public meeting under subsection 400.07; and

iii. Any other procedures by which the public may participate in the final decision.

03. Serving the Public Notice. Public notice of permit actions shall be given by the following methods: (1-1-88)

a. By mail to: (1-1-88)

i. The applicant; (1-1-88)

and ii. Persons on a the mailing list ~~who request to be notified developed under subsection 400.04;~~ (3-30-06)

iii. Other appropriate federal, tribal, state, and or local government entities. (3-30-06)

b. Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; and (3-30-06)

c. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. (1-1-88)

04. Mailing List. The Department shall develop a mailing list for public notices issued under this section by recording those who request in writing to be on the list, publishing notice of the opportunity to be on the mailing list on the Department's website, and periodically publishing in the local press and in regional

and state-funded newsletters, environmental bulletins, state law journals or similar publications. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed and may delete from the list the name of any person who fails to respond to the Department's request.

05. Participation by Idaho Department of Lands. The Department shall formally request that the Idaho Department of Lands participate in the public meeting with respect to performance criteria for permanent closure. (3-30-06)

0506. Public Comment(s), Public Comment Period, and Public Meetings. (3-30-06)

~~a. Within thirty (30) days after the Director's decision to draft a permit, the Department shall hold a public meeting. Oral or written comments may be submitted by any person at the public meeting. The meeting may be presided by agency personnel appointed by the Director. In order for the Department to address public comments in its Response to Public Comments pursuant to Subsection 450.03., comments must be submitted in writing within sixty (60) days after the Director's decision to draft a permit. (3-30-06)~~

~~b. From the time an application is received, until The Director will allow public comment on a draft permit for a period of sixty (60) days after issuance of the notice pursuant to Subsection 300.04., the public may provide written comments beginning on the date of the public notice for the draft permit. All written comments submitted received during this public comment period shall be considered by the Director. (3-30-06)~~

07. Public Meeting. Within thirty (30) days after the date of the public notice for draft permit or draft major permit modification, the Department shall hold a public meeting. Oral or written comments may be submitted by any person at the public meeting. The meeting shall be conducted by an official designated by the Director. In order for the Department to address public comments in its Response to Public Comments pursuant to Subsection 450.03, comments must be submitted in writing during the public comment period under subsection 400.06.

401. -- 449. (RESERVED).

450. FINAL PERMIT DECISION.

01. Issuance. Within sixty (60) days after the ~~close end~~ of the public comment period ~~under Subsection 400.06~~, the Director shall either issue or deny a permit, or major modification of a permit. Provided however, that if weather conditions prevent the Director from inspecting the proposed or existing cyanidation facility site to obtain information needed to approve or reject a submitted application, he may, in writing to the applicant, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. (3-30-06)

02. Notification of the Decision. The Director shall ~~provide notice of the final permit decision to each person or entity given notice under Subsection 400.03.a~~ ~~notify the applicant and each person who requested notice of the final permit decision.~~ This notice shall include reference to the procedures for administrative appeal under Section 003. For the purpose of this section, a final permit decision means a final decision to issue, deny, modify, or revoke a permit. (3-30-06)

03. Response to Public Comments. ~~All written comments and information received during the comment period, together with the Department's final permit decision and the response to relevant written comments shall be made available to the public at the time the Director issues the final permit decision. The Director shall prepare and make available to the public a response to relevant written comments received during the public comment period under Subsection 400.06.~~ This response shall: (3-30-06)

a. Specify ~~any differences between the final permit decision and the draft permit and state the reasons for those differences~~ which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and (3-30-06)

b. Briefly describe and respond to all relevant written comments on the draft permit ~~or denial.~~ (1-1-88)

04. Basis for Permit Denial. The Director shall deny a permit if: (3-30-06)

a. The application is incomplete or inaccurate; (3-30-06)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or (3-30-06)

c. The Idaho Department of Lands has determined that the permanent closure plan does not meet the requirements of Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. (3-30-06)

05. Immediate Effect of the Permit. A valid permit authorizes the construction and operation of a cyanidation facility in accordance with the terms of the permit. (1-1-88)

451. -- 499. (RESERVED).

500. PERMIT CONDITIONS.

The following conditions shall apply to and be specified in all permits: (3-30-06)

01. Compliance Required. The applicant or permittee shall comply with all conditions of the permit. Issuance or possession of a permit issued according to these rules shall not relieve the applicant or permittee of the responsibility to comply with all other applicable local, state, and federal laws. (3-30-06)

02. Record Plans and Specifications. An Idaho licensed professional engineer ~~registered in the state of Idaho~~ must confirm in writing that all record drawings and specifications are complete and accurate. These record plans and specifications must be submitted by the permittee to the Director within thirty (30) days after the completion of the construction of each critical phase of facility development as approved by the Department. The record plans and specifications must be accompanied by a final construction report. If the construction proceeded in substantial compliance with the approved plans and specifications, a statement to the effect may be submitted by the ~~registered, professional~~ engineer. Department review and approval of the final construction report, including record plans and specifications, results of quality control and quality assurance testing, must be obtained before operation of the facility. Operation of the facility may begin if the Department fails to deliver a notice of approval or notice of rejection and corrective actions within thirty (30) days of receipt of all required submittals. (3-30-06)

03. Provide Information. The permittee shall furnish to the Director within a reasonable or specified time any information, including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (3-30-06)

04. Notifications. After initial construction and seasonal and/or temporary closure, the permittee shall, within thirty (30) days, provide written notice to the Director of the permittee's intentions to commence or restart operations. At least thirty (30) days prior to completion of operations, and/or temporary or seasonal operations, the permittee shall notify the Director of the permittee's intentions to temporarily, seasonally or permanently close operations. Notification shall provide sufficient time for the Director to provide pre-operational or post-operational inspections, as necessary. (3-30-06)

05. Entry and Access. The permittee shall allow the Director, or a designee obligated by agreement with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to:

(1-1-88)

a. Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; (4-11-06)

b. Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; (1-1-88)

c. Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; ~~and~~ (4-11-06)

d. Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. (1-1-88)

06. Reporting. It shall be the permittee's responsibility to report to the Director: (1-1-88)

a. Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment; ~~;~~ (1-1-88)

b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which may be or which may result in a violation of these rules, or ~~Idaho Department of Environmental Quality Rules~~, IDAPA 58.01.02, "Water Quality Standards ~~and Wastewater Treatment Requirements~~," or IDAPA 58.01.11, "Ground Water Quality Rule." This report shall contain: (3-30-06)

i. A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; (1-1-88)

ii. The period of the event including, to the extent possible, the individual(s) involved in the incident(s) and the time(s) and date(s) of the incidents; (3-30-06)

iii. Measures taken to mitigate or eliminate the event and protect the public health; and (3-30-06)

iv. Steps taken to prevent recurrence of the event; ~~;~~ (3-30-06)

c. In writing, confirmation of any conditions which may result in violation of any permit condition; ~~and~~ (3-30-06)

d. In writing, when the permittee knows or should reasonably know of relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information shall be included as a part of this report. (3-30-06)

07. Discharge Response. If an unauthorized discharge occurs the permittee shall implement the Department approved emergency and spill response plan. (3-30-06)

08. Temporary or Seasonal Closure Plans. Prior to temporary or seasonal closure, the permittee shall submit a temporary or seasonal closure plan to the Director for approval. The plan shall describe the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director shall approve and/or suggest modifications necessary to protect the waters of the state. The permittee shall ensure that closure complies with an approved plan. In no case shall the permittee complete temporary or seasonal closure prior to implementation of the approved plan. Facilities may not be temporarily or seasonally closed for a period longer than two (2) years unless approved by the Director. (3-30-06)

09. Begin Construction. If the permittee fails to begin construction of a cyanidation facility within one (1) year of the effective date of the permit, the permit will be deemed void. (3-30-06)

10. Permanent Closure. The permanent closure plan, as approved by the ~~Idaho Department of Environmental Quality~~ in coordination with the Idaho Department of Lands, shall be incorporated by reference into the Department-issued permit as a permit condition and shall be enforceable as such. The Department may evaluate permanent closure based on different performance standards than those used by the Idaho Department of Lands. ~~(3-30-06) ()~~

501. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, the permittee must begin implementation of the approved permanent closure plan: (3-30-06)

~~a. Within one (1) year of the final addition of cyanide to the ore processing circuit for pilot or small cyanidation processing facilities; or (4-11-06)~~

~~ba. Within two (2) years of the final addition of cyanide to the ore processing circuit for all other cyanidation facilities; or (4-11-06)~~

~~eb. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (4-11-06)~~

02. Submittal of a Permanent Closure Report. The permittee shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the ~~Idaho Department of Environmental Quality~~ and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section 007 of these rules, has been achieved. The permanent closure report shall address: ~~(3-30-06) ()~~

~~a. The effectiveness of material stabilization; (4-11-06)~~

~~b. The effectiveness of the water management plan and adequacy of the monitoring plan; (4-11-06)~~

~~c. The final configuration of the cyanidation facility and its operational/closure status; (4-11-06)~~

~~d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities; (4-11-06)~~

~~e. The operational/closure status of any land application site of the cyanidation facility; (4-11-06)~~

~~f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted; (4-11-06)~~

~~g. The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit; (4-11-06)~~

~~h. Ownership and responsibility for the cyanidation facility during the defined post-closure period; (4-11-06)~~

~~i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities; and (4-11-06)~~

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (4-11-06)

502. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. **Issuance of Director's Determination.** Within sixty (60) days of receipt of a permanent closure report, the Director shall issue to the permittee a Director's determination of approval or disapproval of the permanent closure report. (4-11-06)

02. **Director's Determination to Disapprove a Permanent Closure Report.** A Director's determination to disapprove a permanent closure report shall specifically identify and discuss those reasons for disapproval, any administrative actions being considered by the Director, and the permittee's options and procedures for administrative appeal. The Director's determination to disapprove a permanent closure report must include: (4-11-06)

- a. Identification of errors or inaccuracies in the permanent closure report: (4-11-06)
- b. Issues or details which require additional clarification: (4-11-06)
- c. Failures to fully implement the approved permanent closure plans: (4-11-06)
- d. Outstanding violations or other noncompliance issues: and (4-11-06)
- e. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (4-11-06)

503. -- ~~54909~~. (RESERVED).

~~55010~~. VALIDITY AND DURATION OF PERMITS.

A permit shall remain valid until the Director determines that permanent closure is completed or the Director revokes or modifies the permit. (3-30-06)

~~55111~~. -- ~~649519~~. (RESERVED).

~~650520~~. FINANCIAL ASSURANCE.

01. **Financial Assurance Required.** The permittee is required to provide financial assurance pursuant to the Idaho ~~Surface Mining~~ Mined Land Reclamation Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. The Department shall not issue a permit under these rules to a cyanidation facility unless a permanent closure plan for the cyanidation facility has satisfied such financial assurance requirements been submitted for approval under Chapter 15, Title 47, Idaho Code. Any permit issued under these rules shall prohibit construction and operation of the cyanidation facility until the permittee submits proof acceptable to the Department that financial assurance for the cyanidation facility permanent closure plan has been provided as required by Chapter 15, Title 47, Idaho Code. (4-11-06) ()

02. **Insufficiency.** In the event the financial assurance is forfeited as described in the Idaho ~~Surface Mining~~ Mined Land Reclamation Act, Chapter 15, Title 47, Idaho Code, the Department may seek to recover the amount necessary to implement permanent closure under the Department-issued permit and these rules as provided by law. (4-11-06) ()

~~651521~~. -- ~~749529~~. (RESERVED).

~~750530~~. PERMIT MODIFICATION.

- 01. Cause for Permit Modification.** Causes for permit modification are: (1-1-88)
- a. A material modification or material expansion in the cyanidation facility operation, design or closure plan; ~~or~~ (4-11-06)
 - b. Natural phenomena substantially different from those anticipated in the original permit. (1-1-88)
- 02. Modification at Request of Permittee.** Requests for modification from the permittee shall include: (1-1-88)
- a. A written description of the modification(s); (1-1-88)
 - b. Data supporting the modification request; ~~and~~ (4-1-88)
 - c. Causes and anticipated effects of the modification. (1-1-88)
- 03. Modification at Request of Director.** Pursuant to Subsection 750530.01, if the Director determines that cause exists for permit modification, the Director shall notify the permittee in writing and request information necessary for the Director to modify the permit. (12-31-91)
- 04. Modification Procedure.** The Director shall evaluate the request for a permit modification, based on the information provided in Subsection 750530.02 or otherwise obtained by the Department, and determine if the modification requires a major permit modification or a minor permit modification.
- a. Major permit modifications shall be subject to the provisions of Sections 100, 200 through 205, 300, 400, and 450. If the Director proposes to approve a major permit modification, the Director shall prepare a draft permit and fact sheet under Section 300 that incorporates the modification.
 - b. Minor permit modifications shall not be subject to the provisions of Sections 100, 300 and 400. The permittee shall notify and receive approval from the Department prior to making minor modifications. (3-30-06)
- 05. Major Permit Modifications.** Changes that require a major permit modification include but are not limited to: (3-30-06)
- a. Material modifications or material expansions to a cyanidation facility as defined by these rules; ~~or~~ (3-30-06)
 - b. A significant increase or decrease in the time the cyanidation facility is expected to be in operation; ~~or~~ (3-30-06)
 - c. Requests to modify or change water quality compliance criteria and/or water quality compliance monitoring points. (3-30-06)
- 06. Minor Permit Modifications.** Minor permit modifications are those which, if granted, would not result in any increased hazard to the environment or to the public health. Within thirty (30) days of receipt of a written request for a minor modification, the Department shall complete an evaluation of the request and either approve or deny the request in writing. Minor modifications may include but are not limited to: (3-30-06)
- a. The correction of typographical errors in an approved permit; (3-30-06)
 - b. Legal transfer of ownership or operational control; (3-30-06)

c. A change in the requirements for monitoring or reporting frequency of the quality or quantity of the project air, water or waste generated; (3-30-06)

d. A change in the cost estimates submitted by a permittee to the Idaho Department of Lands to complete permanent closure; and (3-30-06)

e. A change or modification that is required by a state or federal requirement that supersedes the authorities of these rules. (3-30-06)

~~751531~~ -- ~~799539~~. (RESERVED).

~~800540~~. TRANSFER OF PERMITS.

01. Transfer of Permits Allowed. A permit shall be transferred to a new permittee if such permittee provides written notice to the Director containing: (3-30-06)

a. A specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees; (3-30-06)

b. Demonstration that the new permittee has established appropriate financial assurance for permanent closure of the facility; and (3-30-06)

c. The information required in Subsections 100.03.b., 100.03.d., 100.03.e. and 100.03.g. (3-30-06)

02. Decision. The Director shall either approve of or deny the transfer of the permit within thirty (30) days of receipt of notice that the current permittee wishes to transfer the permit to a new permittee. (3-30-06)

03. Basis for Permit Denial. The Director shall deny the request for the permit transfer if the new permittee has not provided the information required in Subsection ~~800540~~.01. (3-30-06)

~~801541~~ -- ~~8549~~. (RESERVED).

~~8550~~. PERMIT REVOCATION.

01. Cause for Revocation. A material violation of a permit or these rules may be grounds for the Director to revoke a permit. A violation that is shown to have occurred as the result of an unforeseeable act of God despite a permittee's reasonable efforts to comply with all applicable legal requirements shall not be grounds for revocation. (1-1-88)

02. Revocation Hearing. If the Director decides to revoke a permit, he shall issue a notice of intent which shall become final within thirty-five (35) days of service upon the permittee, unless the permittee requests in writing an administrative hearing. The hearing shall be conducted in accordance with IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)()

~~8551~~ -- ~~899559~~. (RESERVED).

~~900560~~. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition shall be deemed a violation of these rules. (1-1-88)

02. **Falsification of Statements and Records.** It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, registration, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit.(1-1-88)

03. **Discharges.** Any unauthorized discharge shall be a violation of these rules. (1-1-88)

901561. -- 999. (RESERVED).

APPENDIX A

APPLICATION PROCESSING TIME LINE FOR DIRECTOR'S FINAL DECISION

IDAPA 58.01.13, RULES FOR ORE PROCESSING BY CYANIDATION

The following chart illustrates the time line for processing a permit application and references the corresponding sections from IDAPA 58.01.13:

