



LEGISLATURE OF THE STATE OF IDAHO



Sixty-fifth Legislature

Second Regular Session - 2020

IN THE _____

BILL NO. _____

BY _____

AN ACT

RELATING TO CYANIDATION FACILITIES; AMENDING SECTION 39-118A, IDAHO CODE, TO REQUIRE THE SUBMISSION OF PERMANENT CLOSURE PLANS FOR CYANIDATION FACILITIES PURSUANT TO SPECIFIED LAW PRIOR TO ISSUANCE OF CERTAIN PERMITS, TO PROVIDE THAT ANY PERMIT ISSUED SHALL PROHIBIT THE CONSTRUCTION AND OPERATION OF A CYANIDATION FACILITY UNTIL THE PERMITTEE SUBMITS PROOF OF FINANCIAL ASSURANCE FOR ITS PERMANENT CLOSURE PLAN, AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-118A, Idaho Code, be, and the same is hereby amended to read as follows:

39-118A. ORE PROCESSING BY CYANIDATION. (1) All plans and specifications for the construction of a cyanidation facility shall be submitted to and approved by the department before construction may begin, and all construction shall be in compliance therewith. Within thirty (30) days of the completion of such construction, modification or expansion, complete and accurate plans and specifications depicting that actual construction, modification or expansion does not deviate from the original approved plans and specifications, shall be submitted to the department. All plans and specifications submitted to satisfy the requirements of this section shall be certified by registered professional engineers.

(2) (a) A cyanidation facility shall not be constructed, operated, or closed prior to a permit being obtained from the department.

(b) Weather permitting, the director shall deliver to the operator within one hundred eighty (180) days after the receipt of a complete permit application the notice of rejection or notice of approval of the permit, as the case may be, provided however, that, subject to the provisions of subsection (3) of this section, if the director fails to deliver a notice of approval or notice of rejection within the time period, the permit submitted shall be deemed to comply with this chapter, and the operator may commence to build, operate or close the cyanidation facility covered by the permit, as the case may be, as if a notice of approval of the permit had been received from the director. Provided however, that if weather conditions prevent the director from inspecting the cyanidation facility to obtain information needed to approve or reject a submitted permit, he may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection.

(c) The director may require a reasonable fee for processing permit applications.

(3) (a) Prior to the effective date of rules promulgated under chapter 15, title 47, Idaho Code, the department is authorized to issue a permit

1 under subsection (2) of this section if the cyanidation facility has
2 provided financial assurance under the provisions of IDAPA 58.01.13 in
3 an amount determined by the department to be the estimated reasonable
4 costs to complete the activities specified in the permanent closure
5 plan required in IDAPA 58.01.13, in the event of the failure of an opera-
6 tor to complete those activities, plus ten percent (10%) of such costs.
7 In setting the amount of financial assurance, the department shall
8 avoid duplication with any financial assurance, bonds and sureties de-
9 posited with other governmental agencies.

10 (b) After the effective date of rules promulgated under chapter 15,
11 title 47, Idaho Code, the department shall not issue a permit under
12 subsection (2) of this section unless a permanent closure plan for the
13 cyanidation facility has satisfied the financial assurance require-
14 ments of been submitted for approval under chapter 15, title 47, Idaho
15 Code, relating to ore processing by cyanidation. Any permit issued by
16 the department under subsection (2) of this section shall prohibit con-
17 struction and operation of the cyanidation facility until the permittee
18 submits proof acceptable to the department that financial assurance for
19 the cyanidation facility permanent closure plan has been provided as
20 required by chapter 15, title 47, Idaho Code.

21 (4) A cyanidation facility with an existing permit approved by the de-
22 partment prior to July 1, 2005, shall be subject to the applicable laws and
23 rules for ore processing by cyanidation in effect on June 30, 2005. If there
24 is a material modification or a material expansion of a cyanidation facility
25 after June 30, 2005, all provisions of this chapter shall apply to the mod-
26 ification or expansion; provided however, that reclamation or closure-re-
27 lated activities at a facility with an existing cyanidation permit approved
28 by the department that did not actively add cyanide after January 1, 2005,
29 shall not be considered to be material modifications or a material expansion
30 of the facility.

31 (5) The department shall promulgate temporary rules by August 1, 2005,
32 to implement the provisions of this act; however, no rulemaking is neces-
33 sary, nor shall be required, to increase the amount of financial assurance
34 provided by the department's interim authority under subsection (3)(a) of
35 this section.