

<p>Docket Number: <u>58-0124-1801</u> Effective Date: <u>December 5, 2018 (temporary rule) / 2019 Sine die (pending rule)</u> Rules Title: <u>Standards and Procedures for Risk Based Corrective Action at Petroleum Release Sites</u> Agency Contact and Phone: <u>Michael McCurdy, 373-0188/Eric Traynor, 373-0565</u></p>	<p style="text-align: center;"><u>Public Notice</u></p> <p>Hearings: [] Yes [X] No Locations and Dates: N/A Written Comment Deadline: 10/3/18</p>
<p>Descriptive Summary of Rule as Initially Proposed: DEQ initiated this rulemaking to update the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites, IDAPA 58.01.24, and the associated guidance manual, Idaho Risk Evaluation Manual for Petroleum Releases, to reflect the updated toxicity criteria as established by EPA. The rule was first adopted by the Idaho Board of Environmental Quality (Board) in 2008 and approved by the Idaho Legislature in 2009. In 2012, the rule was amended to update toxicity criteria and guidance was developed. Since the 2012 adoption of the rule and guidance, many of the petroleum chemicals of concern listed in the tables in the rule have had updated toxicity information which has resulted in the screening levels found in the tables to be out of date with current toxicity criteria.</p> <p>The proposed rule includes the transfer of Table 2, screening level values, and Table 3, toxicity values, to the guidance manual. DEQ is proposing these revisions to avoid the rule becoming out of date and to promote current and consistent corrective action decision-making at petroleum release sites. The guidance manual has also been updated with the current industry practice for evaluation of the vapor intrusion pathway. The revised Idaho Risk Evaluation Manual for Petroleum Releases is available at www.deq.idaho.gov.</p> <p>Temporary Rule Justification: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption is appropriate in that the rulemaking confers a benefit. The revisions to the rule and associated guidance will confer a benefit to the regulated community by providing the most current toxicity criteria in both the rule and guidance. Adoption of a temporary rule would ensure that the effective date of the rule lines up with the date the revised guidance manual becomes final.</p> <p>DEQ recommends that the Board adopt the rule, as presented in the final proposal, as a temporary/pending rule.</p>	<p>Negotiated Rule Making: [X] Yes [] No The Negotiated Rulemaking Summary is attached.</p> <p>Costs To the Agency: None anticipated.</p> <p>Costs To the Regulated Community: None anticipated.</p> <p>Relevant Statutes: Chapters 1, 36, 44, 72, and 74, Title 39, Idaho Code</p> <p>Idaho Code § 39-107D Statement: Section 39-107D, Idaho Code, provides that DEQ must meet certain requirements when it formulates and recommends rules which are broader in scope or more stringent than federal law or regulations. There is no federal law or regulation that is comparable to the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites. Therefore, this rule is not broader in scope or more stringent than federal law or regulations.</p> <p>Section 39-107D, Idaho Code, also applies to a rule which "proposes to regulate an activity not regulated by the federal government." This rule does not propose to regulate an activity not regulated by the federal government. However, the proposed rule does make revisions to a process currently in the rule that is not specifically delineated or required by the federal government. DEQ previously addressed Sections 39-107D(3) and (4), Idaho Code, when this rule chapter was first promulgated in 2009 under Docket No. 58-0124-0801.</p>

Temporary Rule Necessary to protect public health, safety or welfare
 Compliance with deadlines in amendments to governing law or federal programs
 Conferring a benefit

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Section	Section Title	Summary of Rule Changes Based on Public Comment
008	Tables.	This section has not been changed. No comments received.
100	Chemicals Evaluated at Petroleum Release Sites.	This section has not been changed. No comments received.
200	Risk Evaluation Process.	This section has not been changed. No comments received.
300	Site Specific Risk Evaluation Requirements.	This section has not been changed. No comments received.
400	Establishment of Remediation Standards.	This section has not been changed. No comments received.
800	Table. Chemicals of Interest for Various Petroleum Products.	This section has not been changed. No comments received.

Department of Environmental Quality

**Negotiated Rulemaking Summary
Idaho Code § 67-5220(3)(f)**

**Standards and Procedures for Application of Risk Based Corrective Action
At Petroleum Release Sites, IDAPA 58.01.24
Docket No. 58-0124-1801, Dated August 17, 2018**

This rulemaking has been initiated to update the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites, IDAPA 58.01.24, and the associated guidance manual, Idaho Risk Evaluation Manual for Petroleum Releases, to reflect the updated toxicity criteria as established by EPA.

The Notice of Negotiated Rulemaking was published in the June 2018 issue of the Idaho Administrative Bulletin and a preliminary draft rule was made available for public review. Meetings were held on June 29 and July 19, 2018. Key information was posted on the DEQ rulemaking web page and distributed to the public. Members of the public participated in the negotiated rulemaking process by attending the meetings.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding development of the rule. At the conclusion of the negotiated rulemaking process, DEQ formatted the final draft for publication as a proposed rule in the Idaho Administrative Bulletin. The negotiated rulemaking record, which includes the negotiated rule drafts and documents distributed during the negotiated rulemaking process, is available at www.deq.idaho.gov/58-0124-1801.