

FINAL PROPOSAL
Dated October 9, 2018

STANDARDS AND PROCEDURES FOR RISK BASED CORRECTIVE ACTION AT
PETROLEUM RELEASE SITES, DOCKET NO. 58-0124-1801

The Department of Environmental Quality recommends that the Board of Environmental Quality adopt the rule as initially proposed in the Idaho Administrative Bulletin, September 5, 2018, Vol. 18-9, pages 457 through 466.

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.24 – STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED
CORRECTIVE ACTION AT PETROLEUM RELEASE SITES
DOCKET NO. 58-0124-1801
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY AND PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Idaho Board of Environmental Quality (Board) as a temporary and pending rule. The temporary rule will become effective on December 5, 2018. The pending rule will become final and effective immediately upon the adjournment *sine die* of the First Regular Session of the Sixty-fifth Idaho Legislature unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a temporary and pending rule. This action is authorized by Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 5, 2018, Vol. 18-9, pages 457 through 466. DEQ received no public comments, and the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0124-1801 or by contacting the undersigned.

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.

IDAHO CODE SECTION 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.

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.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Eric Traynor at eric.traynor@deq.idaho.gov, (208)373-0565.

Dated this 5th day of December, 2018

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