

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. 58-0124-1101

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Additional meetings may be scheduled if necessary. For information regarding participation by telephone or scheduling of additional meetings, contact the undersigned. Requests to participate by telephone must be made by June 20, 2011.

June 23, 2011, 8:30 a.m. to 12:30 p.m. Mountain Time

**Department of Environmental Quality, Conference Room A
1410 N. Hilton, Boise, Idaho**

PRELIMINARY DRAFT: By June 1, 2011, a preliminary draft of the rule can be obtained at http://www.deq.idaho.gov/rules/risk/58_0124_1101_negotiated.cfm or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: DEQ rule chapter "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites," IDAPA 58.01.24, was adopted by the Idaho Board of Environmental Quality in 2008 and approved by the Idaho Legislature in 2009. The rule requires that DEQ develop a guidance document to aid in implementation of the rule. During work group meetings for guidance development, the work group identified that the current state of the science regarding the methodologies describing how the toxicity data is used to calculate risk, particularly for inhalation exposures, had changed. The work group also concluded that the procedures and screening levels for risk evaluation of the vapor intrusion pathway, as delineated in the existing rule, did not meet current industry practice by omitting the use of soil vapor measurements. This rulemaking has been initiated to update portions of the rule that are pertinent to evaluation of petroleum release sites in order to promote consistent corrective action decision-making at these sites.

The preliminary draft rule will include the following proposed revisions:

- (1) Correct chemical toxicity values in Table 3 to conform to currently accepted standards;
- (2) Update the Screening Level values for soil and ground water in Table 2 using these updated toxicity values and current risk calculation methodologies;
- (3) Revise the Screening Level Table 2 by adding screening values for soil vapor measurements; and
- (4) Sections 200, 300, and 400 will be revised to incorporate the use of soil vapor into the risk evaluation process.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Cities, counties, bankers, lenders, realtors, petroleum marketers, consultants, and citizens of the state of Idaho may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2011 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule in the fall of 2011. If adopted by the Board, the pending rule will be reviewed by the 2012 Idaho Legislature.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Bruce Wicherski at bruce.wicherski@deq.idaho.gov, (208)373-0246.

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or e-mail at the address below. Written comments on the preliminary draft rule must be received by June 28, 2011. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

DATED this 4th day of May, 2011.

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