

**Zero-Based Regulation
Prospective Analysis**

Agency Name:

Rule Docket Number: 58-0124-2401 STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES

1. What is the specific legal authority for this proposed rule?

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Chapter 1, Title 39, Idaho Code	Mandatory
Chapter 36, Title 39, Idaho Code	Mandatory
Chapter 44, Title 39, Idaho Code	Mandatory
Chapter 72, Title 39, Idaho Code	Mandatory
Chapter 74, Title 39, Idaho Code	Mandatory

2. Define the specific problem that the proposed rule is attempting to solve? Can the problem be addressed by non-regulatory measures?

In [Executive Order 2020-01](#), Zero-Based Regulation, Governor Little directed agencies to conduct a 5-year review of each rule chapter effective on June 30, 2020. DEQ initiated this rulemaking in compliance with EO 2020-01.

This rulemaking includes updates consistent with the adopted Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (40 CFR Part 280) required for state program approval. It also includes a proposal to retire DEQ’s risk evaluation software in exchange for the Environmental Protection Agency’s (EPA) risk evaluation process using EPA’s Regional Screening Level Calculator and Vapor Intrusion Screening Level Calculator.

This rulemaking also includes a proposal to move Sections 800 and 849 – 852 from the Water Quality Standards ([IDAPA 58.01.02](#)) to IDAPA 58.01.24. In the IDAPA 58.01.24 negotiated rule draft, Sections 800 and 849 – 852 were renumbered and revised to fit into 58.01.24. At the conclusion of the negotiated rulemaking, DEQ will initiate a separate companion rulemaking for the purpose of deleting the sections identified for removal from IDAPA 58.01.02 and moved to IDAPA 58.01.24.

This problem cannot be addressed by non-regulatory measures.

3. How have other jurisdictions approached the problem this proposed rule intends to address?

a. Is this proposed rule related to any existing federal law?

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)

b. How does this proposed rule compare to other state laws?

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
Washington		
Oregon		
Nevada		
Utah		
Wyoming		
Montana		
Alaska		
South Dakota		

- c. **If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:**

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4. **What evidence is there that the rule, as proposed, will solve the problem?**

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5. **What is the anticipated impact of the proposed rule on various stakeholders? Include, how will you involve them in the negotiated rulemaking process?**

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	None anticipated.
Impact to Idaho businesses, with special consideration for small businesses	None anticipated.
Impact to any local government in Idaho	None anticipated.
DEQ will involve stakeholders by 1) announcing initiation of the negotiated rulemaking on DEQ's website and sending email notification to identified stakeholders, and 2) providing opportunities to review rule drafts, attend meetings, and submit comments.	

6. **What cumulative regulatory volume does this proposed rule add?**

Category	Impact
Net change in word count	

Net change in restrictive word count (Restrictive words include shall, must, may not, prohibit, and require.)	
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