

GIVENS PURSLEY LLP

Attorneys and Counselors at Law

601 W. Bannock Street
PO Box 2720
Boise, ID 83701
Telephone: 208-388-1200
Facsimile: 208-388-1300
www.givenspursley.com

Taylor J. Barton
Charlie S. Baser
Christopher J. Beeson
Jason J. Blakley
Clint R. Bolinder
Jeff W. Bower
Preston N. Carter
Chynna K. Castoro
Jeremy C. Chou
Charlotte V. Cunningham
Joshua C. Dickinson

Amber N. Dina
Bradley J. Dixon
Thomas E. Dvorak
Rebecca M. Fitz
Morgan D. Goodin
Don Z. Gray
Brian J. Holleran
Kersti H. Kennedy
Elizabeth A. Koeckeritz
Neal A. Koskella
Michael P. Lawrence

Franklin G. Lee
Matthew E. Liebertz
David R. Lombardi
Kimberly D. Maloney
Kenneth R. McClure
Alex P. McLaughlin
Melodie A. McQuade
Christopher H. Meyer
L. Edward Miller
Judson B. Montgomery
Deborah E. Nelson

Randall A. Peterman
Blake W. Ringer
Michael O. Roe
Danielle M. Strollo
Robert B. White
Michael V. Woodhouse

Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
Raymond D. Givens (1917-2008)

April 19, 2024

VIA EMAIL ONLY

kristi.lowder@deq.idaho.gov

Kristi Lowder
Department of Environmental Quality
1410 North Hilton
Boise, Idaho 83706

Re: Petroleum Release Corrective Action Comments – Docket No. 58-0124-2401

Dear Ms. Lowder:

Thank you for your responsive comments, dated April 5, 2024 (“DEQ Responsive Comments”), that address the public comments provided on behalf of the Idaho Petroleum Clean Water Trust Fund, also known as the Petroleum Storage Tank Fund (the “Fund”) on March 29, 2024. The Fund appreciates the time you have taken to address each of its outstanding concerns, both in the DEQ Responsive Comments and during the negotiated rulemaking hearings. We also appreciate the opportunity to participate fully in the negotiated rulemaking as a collaborative partner with the Idaho Department of Environmental Quality (“DEQ”). Our comments herein are responsive to both the DEQ Responsive Comments and the second negotiated rulemaking hearing (the “Hearing”).

The Fund shares DEQ’s goal of developing rules that are clear, consistent, concise, and complete, and comply with, but no more than, the United States Environmental Protection Agency (“EPA”) standards in addition to being fair to the regulated community.

As such, the Fund would like to acknowledge the changes that DEQ has proposed in its Negotiated Rule Draft No. 2 (the “Rule”). First, we agree with the changes to the search radius for wells. The adoption of a ½-mile search radius is now consistent in the Rule which provides greater clarity. Second, we agree with the amendments to the term “schedule and criteria.” We believe that the changes provide clearer guidance as to when one enforcement mechanism is required to be used over another. Thank you for making these amendments.

Conversely, the Fund remains dissatisfied by DEQ’s reason for the transfer of the Hazardous Waste Materials rules at Sections 800 and 849 – 852 from the Water Quality

Standards (IDAPA 58.01.02) to IDAPA 58.01.24. It is our understanding that the transfer of the rules is for convenience on the basis that the corrective action docket was open and available after DEQ concluded that the hazardous materials rules were an outlier within their current home. We do not dispute that the hazardous waste rules apply to the petroleum industry, and we understand why DEQ would want to move the rules out of the Water Quality Standards. However, we remain unconvinced as to the reason for moving the hazardous waste materials rules into the petroleum corrective action rules, and believe that the transfer will create confusion for the regulated industry. Hazardous waste rules cover a broader set of chemicals. Therefore, we restate our strong preference to keep the rules separate.

Additionally, there remain a few outstanding issues that we would like to see addressed in a future version of the rule. These are taken in turn below.

First, Section 300.01.e of the Rule provides reference sources of reasonable maximum exposure factor information which is duplicative to the reference sources listed in Section 003 (Availability of Referenced Material). To resolve the repetition and to emphasize the use of the EPA's calculators, the Fund recommends that Section 300.01.e be amended to reflect the proposed language highlighted in green at **Exhibit A, PSTF Proposed Changes to Negotiated Rulemaking Draft**.

Second, Section 800 of the proposed rule includes a table showing the *Chemicals of Interest for Various Petroleum Products*. The Fund believes that the table should be annotated to indicate that for diesel fuel, fuel oils, and jet fuel, acenaphthene, anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, fluorene, fluoranthene, and pyrene are not Chemicals of Interest for soil vapor analyses. The EPA's Vapor Intrusion Screening Level ("VISL") calculator reports that these chemicals either have no available inhalation toxicity information or are not sufficiently volatile and toxic to pose inhalation risk via vapor intrusion from a soil source. Additionally, the analysis of benzo(a)anthracene by commercial laboratories cannot report values for this chemical that meet DEQ's present screening level (0.056 ug/m³) or EPA's default value-calculated VISL (0.0169 ug/m³). In response to an inquiry, Eurofins Air Toxics reports that:

"Typically the pump rate for TO-13A low volume is between 1L-5L/min. At 5L/min for 8 hours you would extract 2,400 liters of air resulting in a reporting limit of .417 ug/m³ for benzo(a)anthracene. A 5 L/min pump rate also assumes that you have sufficient subsurface porosity to obtain that much air volume. I believe this scenario (sub-slab collection / soil vapor) is not practical given the reporting limit requirements."

As such, benzo(a)anthracene should also be excluded from the Chemicals of Interest table for soil vapor analyses from diesel fuel, fuel oils, and jet fuel releases. A proposed revision of the table is attached herein at Section 800 of **Exhibit A**.

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Finally, as expressed at the Hearing, the Fund is concerned that its partnership role in making changes to the Risk Evaluation Guidance Manual (the “Manual”) could be diminished as a result of the proposed changes at Section 700 of the Rule. We are in agreement that the Manual has been initially developed and therefore, the necessity to be at the table to *develop* the Manual is negated. However, the Fund should be afforded the opportunity to comment on changes made on an ongoing basis. The proposed Rule currently states that the Fund and the public will only be invited to discuss changes that DEQ believes, in its discretion, are substantive. We are concerned with the use of the word “substantive” because it is subject to interpretation. We concede that formatting and typographical error edits do not require the Fund’s input. However, it is possible that simple changes to the rule may not be considered substantive even when they pose material changes to the Rule. During the Hearing, you requested that the Fund recommend language to amend Section 700 to find a more amenable approach. In response to this offer, please see our proposed changes also highlighted in green at **Exhibit A**.

Thank you once again for your collaboration. If you have questions, please direct them to myself and Mike Backe, via email at ccunnington@givenspursley.com and mbacke@olytech.com, respectively.

Sincerely,



Charlotte V. Cunnington

CVC/SLW

Enclosures

cc: (via email only) mbacke@olytech.com; roger.titmus@idahopstf.org;
sronan@olytech.com; danielle.duran@idahopstf.org; Mark.Peterson@idahosif.org.

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EXHIBIT A
PSTF Proposed Changes to Negotiated Rulemaking Draft, Docket No. 58-0124-2401

Negotiated Rule Draft No. 2, Docket No. 58-0124-2401

~~58.01.24 – STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES~~ RULES FOR HAZARDOUS MATERIAL MANAGEMENT AND PETROLEUM CORRECTIVE ACTION

000. LEGAL AUTHORITY.

Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code ~~grant authority to the Board of Environmental Quality to adopt rules and administer programs to protect public health and the environment, including the protection of surface water, ground water, and drinking water quality. (3-31-22)~~

~~001. TITLE, SCOPE AND APPLICABILITY.~~

~~01. Title. These rules are titled IDAPA 58.01.24, “Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites.” (3-31-22)~~

~~02. Scope. These rules establish standards and procedures~~ for unauthorized hazardous material storage and releases (Subsections 40, 50, and 51) and to determine whether and what ~~risk based~~ corrective action measures should be applied to property subject to assessment and cleanup requirements ~~under IDAPA 58.01.02, Sections 851 and 852, “Water Quality Standards,” and associated definitions; IDAPA 58.01.11, Subsection 400.05, “Ground Water Quality Rule;” or when assessment and cleanup requirements are incorporated into compliance documents entered into per Chapter 1, Title 39, Idaho Code (Subsections 60, 61, and 100 – 600).~~ Compliance with these rules ~~shall~~ does not relieve persons from the obligation to comply with other applicable state or federal laws. These rules do not apply to previously closed ~~sites~~ releases. The Department will not require any additional evaluation of petroleum sites previously granted closure unless there is a new petroleum release. ~~(3-31-22)~~

~~002. WRITTEN INTERPRETATIONS.~~

~~As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-31-22)~~

~~003. ADMINISTRATIVE PROVISIONS.~~

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-31-22)

~~004. INCORPORATION BY REFERENCE.~~

~~These rules do not contain documents incorporated by reference. (3-31-22)~~

~~005. AVAILABILITY OF REFERENCED MATERIAL.~~

The most current editions of D documents and data-bases referenced for use within these rules are available at the following locations: ~~(3-31-22)~~

01. Idaho Risk Evaluation Manual for Petroleum Releases. Idaho Risk Evaluation Manual for Petroleum Releases ~~and subsequent editions~~, <http://www.deq.idaho.gov>. ~~(3-31-22)~~

02. U.S. EPA ~~RAGS~~ Risk Assessment Guidance for Superfund (RAGS). U.S. EPA RAGS, Volume 1, <http://www.epa.gov/oswer/riskassessment/policy.htm#5>, U.S. EPA RAGs, <https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part>. ~~(3-31-22)~~

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03. U.S. EPA Exposure Factors Handbook. U.S. EPA Exposure Factors Handbook, ~~<http://www.epa.gov/ncea/pdfs/efh/front.pdf>~~, <https://www.epa.gov/expobox/about-exposure-factors-handbook>. (3-31-22)

04. Idaho Source Water Assessment Plan. Idaho Source Water Assessment Plan, <http://www.deq.idaho.gov>. (3-31-22)

05. EPA Regional Screening Levels (RSLs) Tables. EPA ~~Regional Screening RSLs Tables, -Error! Hyperlink reference not valid.~~ ~~reg3hwmd/risk/human/rb-concentration_table/index.htm~~. <https://www.epa.gov/risk/regional-screening-levels-rsls-generic-tables>. (3-31-22)

06. EPA Regional Screening Levels (RSL) Calculator. EPA RSL Calculator, https://epa-prgs.ornl.gov/cgi-bin/chemicals/csl_search.

07. EPA Vapor Intrusion Screening Levels (VISL) Calculator. EPA VISL Calculator, https://epa-visl.ornl.gov/cgi-bin/visl_search

08. Technical Guide For Addressing Petroleum Vapor Intrusion At Leaking Underground Storage Tank Sites. Technical Guide For Addressing Petroleum Vapor Intrusion At Leaking Underground Storage Tank Sites, <https://www.epa.gov/sites/default/files/2015-06/documents/pvi-guide-final-6-10-15.pdf>.

~~**006. OFFICE HOURS MAILING ADDRESS AND STREET ADDRESS.**~~

~~The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706 1255, (208) 373 0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (3-31-22)~~

~~**007. CONFIDENTIALITY OF RECORDS.**~~

~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (3-31-22)~~

~~**008. TABLES.**~~

~~**01. Chemicals of Interest for Various Petroleum Products.** The table of chemicals of interest for various petroleum products is available in Section 800 of these rules. (3-31-22)~~

~~**02. Screening Level Concentrations for Soil, Ground Water, and Soil Vapor.** The table of screening level concentrations for soil, ground water, and soil vapor is available in the Idaho Risk Evaluation Manual for Petroleum Releases at www.deq.idaho.gov. (3-31-22)~~

~~**03. Default Toxicity Values for Risk Evaluation.** The table of default toxicity values for risk evaluation is available in the Idaho Risk Evaluation Manual for Petroleum Releases at www.deq.idaho.gov. (3-31-22)~~

~~**009. ACRONYMS.**~~

~~**01. EPA.** The United States Environmental Protection Agency. (3-31-22)~~

~~**02. PST.** Petroleum Storage Tank System. (3-31-22)~~

~~**03. RAGS.** Risk Assessment Guidance for Superfund. (3-31-22)~~

~~**04. UECA.** Uniform Environmental Covenant Act. See definition in Section 010. (3-31-22)~~

004. -- 009. (RESERVED)

010. DEFINITIONS.

~~For the purpose of the rules contained in IDAPA 58.01.24, "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites," the following definitions apply:~~

~~The terms "department," "person," and "waters" have the same meaning provided for those terms in Section 39-103, Idaho Code. The terms "petroleum" and "release" have the same meaning provided for those terms in Section 39-7203, Idaho Code. (3-31-22)~~

01. Acceptable Target Hazard Index (for petroleum releases). The summation of the hazard quotients of all chemicals and routes of exposure to which a receptor is exposed and equal to a value of one (1). If the initial value exceeds one (1), further evaluation, including individual organs, can be completed. (3-31-22)

02. Acceptable Target Hazard Quotient (for petroleum releases). The ratio of a dose of a single chemical over a specified time period to a reference dose for that chemical derived for a similar exposure period. A hazard quotient of one (1) for a specified receptor when applied to individual chemicals. A hazard quotient of 0.1 (zero point one) for a specified receptor when multiple chemicals and/or exposure routes are present. (3-31-22)

03. Acceptable Target Risk Level (for petroleum releases). Acceptable risk level for human exposure to carcinogens. For exposure to individual carcinogens a lifetime excess cancer risk of less than or equal to one per one million (1 E-6) for a receptor at a reasonable maximum exposure. For combined exposure to all carcinogens and routes of exposure, a lifetime excess cancer risk of less than or equal to one per one hundred thousand (1 E-5) for a receptor at a reasonable maximum exposure. (3-31-22)

04. Activity and Use Limitations. Restrictions or obligations, with respect to real property, created by an environmental covenant. Activity and use limitations may include, but are not limited to, land use controls, activity and use restrictions, environmental monitoring requirements, and site access and security measures. Also known as institutional controls. (3-31-22)

05. Background. Media specific concentration of a chemical that is consistently present in the environment in the vicinity of a site which is the result of human activities unrelated to release(s) from that site under investigation. (3-31-22)

~~06. Board. The Idaho Board of Environmental Quality. (3-31-22)~~

07. Corrective Action Plan (CAP). A document, subject to approval by the Department, ~~which that~~ describes: (3-31-22)

~~a. describes~~ The actions and measures that will be implemented to ensure that adequate protection of human health and the environment is achieved and maintained. ~~A corrective action plan also; and~~ (3-31-22)

~~b. describes~~ The applicable remediation standards. ~~Also may~~ May also be known as a risk management plan or a remediation workplan. (3-31-22)

xx. Deleterious Material. As defined in IDAPA 58.01.02, "Water Quality Standards."

08. Delineated Source Water Protection Area. The physical area around a public drinking water supply well or surface water intake identified in an approved Department source water assessment that contributes water to a well (the zone of contribution). The size and shape of the delineated source water area depend on the delineation method and site-specific factors. The area may be mapped as a one thousand (1000) ft. fixed radius around the well (transient public water systems) or divided into three (3), six (6), and ten (10) year time of travel zones (e.g. zones indicating the number of years necessary for a particle of water to reach a well or surface water intake). For the purposes of these rules, where ground water time of travel zones have been delineated, the three (3) year time of travel

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zone shall apply. Where surface water systems have been delineated, this area includes a five hundred (500) ft. buffer around a lake or reservoir, or a five hundred (500) ft. buffer along the four (4) hour upstream time of travel of streams. See the Idaho Source Water Assessment Plan. (3-31-22)

~~09. Department. The Idaho Department of Environmental Quality. (3-31-22)~~

~~xx. Dissolved Product. Petroleum product constituents found in solution with water.~~

10. **Environmental Covenant.** As defined in the Uniform Environmental Covenant Act (UECA), Chapter 30, Title 55, Idaho Code, ~~an environmental covenant is a servitude arising under an environmental response project that imposes activity and use limitations.~~ (3-31-22)

11. **Exposure Point Concentration.** The average concentration of a chemical to which receptors are exposed over a specified duration within a specified geographical area. The exposure point concentration is typically a conservative estimate of the mean. Also referred to as the representative concentration. (3-31-22)

~~xx. Facility. Any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred.~~

~~xx. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch measured on the water surface for surface water or the water table for groundwater.~~

~~xx. Groundwater. As defined in IDAPA 58.01.11, "Ground Water Quality Rule."~~

~~12. Hazard Quotient. The ratio of a dose of a single chemical over a specified time period to a reference dose for that chemical derived for a similar exposure period. (3-31-22)~~

~~xx. Hazardous Material. As defined in IDAPA 58.01.02, "Water Quality Standards,".~~

13. **Method Detection Limit.** The minimum concentration of a substance that can be reported with ninety-nine percent (99%) confidence is greater than zero. Method detection limits can be operator, method, laboratory, and matrix specific. (3-31-22)

14. **Operator.** Any person presently or who was at any time during a release in control of, or responsible for, the daily operation of the petroleum storage tank (PST) system. (3-31-22)

15. **Owner.** Any person who owns or owned a PST system any time during a release and the current owner of the property where the PST system is or was located. (3-31-22)

~~16. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body, or any legal entity which is recognized by law as the subject of rights and duties. (3-31-22)~~

~~17. Petroleum. Crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven tenths (14.7) pounds per square inch absolute). This includes petroleum based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, and lubricants. (3-31-22)~~

18. **Petroleum Storage Tank (PST) System.** Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and

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stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (3-31-22)

19. Practical Quantitation Limit. The lowest concentration of a chemical that can be reliably quantified among laboratories within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. Practical quantitation limits can be operator, method, laboratory, and matrix specific. (3-31-22)

20. Reasonable Maximum Exposure. The highest exposure that can be reasonably expected to occur for a human or other living organism at a site under current and potential future site use. (3-31-22)

21. Reference Dose. For chronic or long-term exposures an estimate of a daily exposure level to a chemical for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of deleterious noncarcinogenic effects during a lifetime, expressed in units of milligrams per kilogram body weight per day. (3-31-22)

~~**22. Release.** Any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a PST into soil, ground water, or surface water. (3-31-22)~~

23. Remediation Standard. A media specific concentration ~~which~~ that, when attained, is considered to provide adequate protection of human health and the environment. (3-31-22)

xx. Responsible Persons in Charge. Any person who:

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials;

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred.

24. Residential Use. Residential use means land uses ~~which~~ that include residential or sensitive populations. (3-31-22)

25. Risk-Based Concentration. The residual media specific concentration of a chemical that is determined to be protective of human health and the environment under specified exposure conditions. (3-31-22)

26. Risk Evaluation. The process used to determine the probability of an adverse effect due to the presence of a chemical. A risk evaluation includes development of a ~~site~~-conceptual site model, identification of the chemicals present in environmental media, assessment of exposure and exposure pathways, assessment of the toxicity of the chemicals present, characterization of human risks, and characterization of impacts or risks to the environment. (3-31-22)

27. Screening Level. A media specific concentration ~~which~~ that, based on specified levels of risk or hazard, exposure pathways and routes of exposure, expected land use, and exposure factors, can be used to assess the need for additional investigation or corrective action. (3-31-22)

28. Slope Factor. A plausible upper-bound estimate of the probability of an individual developing cancer as a result of a lifetime of exposure to a particular level of a potential carcinogen. It is expressed as the probability of a response per unit intake of a chemical over a lifetime. (3-31-22)

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~~29. **Uniform Environmental Covenant Act (UECA).** UECA is found in Chapter 30, Title 55, Idaho Code. UECA provides a statutory mechanism for creating, modifying, enforcing and terminating environmental covenants. (3-31-22)~~

~~011. -- 0939. (RESERVED)~~

~~849040. **OIL-FILLED ELECTRIC EQUIPMENT.**~~

~~[Section 040 moved from IDAPA 58.01.02.849 and revised]~~

~~Releases of Dielectric Oil from oil-filled electric equipment are subject to the following requirements:~~

~~01. **Unauthorized Releases.** In the case of an unauthorized release of dielectric oil to state waters or to land such that there is a likelihood that it will enter state waters, the persons in charge must:~~

~~a. **Stop Continuing Releases.** Make every reasonable effort to abate and stop a continuing release. Provided however, that s Seepage normally associated with oil-filled electrical equipment occurring in substations or distribution facilities with restricted access and not causing a threat to waters of the state is not considered a continuing release.~~

~~b. **Contain Material.** Make every reasonable effort to contain released dielectric oil in such a manner that it will not reach surface or ground water of the state waters.~~

~~c. **Department Notification Required.** Notify the Department or designated agent within forty-eight (48) hours of discovery of any release over twenty-five (25) gallons, or any release causing a threat to waters of the state, from any piece of electrical equipment.~~

~~d. **Collect, Remove, and Dispose.** Collect, remove, and dispose of the released dielectric oil and any contaminated media in a manner approved by the Department.~~

~~e. **Compliance with Section 852.** If collection, removal, and disposal cannot be accomplished within thirty (30) days after discovery of a release, the persons in charge shall must comply with Section 852061.~~

~~f. **EPA's RSL Calculator and VISL Calculator, or other approved risk evaluation process, such as the Idaho Risk Evaluation Manual for Petroleum Releases, may be used for screening level evaluations, risk evaluations, and remediation standards.**~~

~~02. **Applicability.** This section applies only to equipment used in the transmission of electricity such as transformers, regulators, reactors, circuit breakers, switch gear and attendant equipment which is filled with mineral insulating oil of a petroleum origin. This section does not pertain to bulk storage of dielectric oil which is not contained in electrical equipment.~~

~~041. -- 049. (RESERVED)~~

~~050. **HAZARDOUS AND DELETERIOUS MATERIAL STORAGE.**~~

~~[Section 050 moved from IDAPA 58.01.02.800 and revised]~~

~~Hazardous and deleterious materials must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to ensure that those materials will not enter state waters as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third-party activities.~~

~~01. **Criteria to Be Evaluated.** Measures and controls will be judged by the Department on the basis of the following:~~

~~a. Potential of a given occurrence; and~~

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b. ~~The p~~Potential injury to beneficial uses presented by the nature and quantity of the material and on the physical design of the facility.

02. ~~Such m~~ Delineation of Materials. Material includes, but is not limited to, trash, rubbish, garbage, oil, gasoline, chemicals, sawdust, and accumulations of manure.

051. HAZARDOUS MATERIAL ~~SPILLS~~ RELEASES.

[Section 051 moved from IDAPA 58.01.02.850 and revised]

In the case of an unauthorized release of hazardous materials to ~~state~~ waters or ~~to~~ land such that there is a likelihood that it will enter ~~state~~ waters, the responsible persons in charge must:

01. ~~Stop Continuing~~ Spills Releases. Make every reasonable effort to abate and stop a continuing ~~spill~~ release.

02. ~~Contain~~ Material. Make every reasonable effort to contain ~~spilled~~ released material in such a manner that it will not reach ~~surface or groundwaters of the state~~ waters.

03. ~~Department Notification~~ Required. Immediately notify the Department or designated agent of the ~~spills~~ release unless providing notification according to Sections 040 or 060.

04. ~~Collect, Remove and Dispose~~. Collect, remove, and dispose of the ~~spilled~~ released material in a manner approved by the Department.

05. ~~Investigation and Cleanup~~. EPA's RSL Calculator and VISL Calculator, or other approved risk evaluation process, such as the Idaho Risk Evaluation Manual for Petroleum Releases, may be used for screening level evaluations, risk evaluations, and remediation standards.

052. -- 059. (RESERVED)

060. PETROLEUM RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION.

[Section 060 moved from IDAPA 58.01.02.851 and revised]

01. ~~Reporting of Suspected Releases for All Petroleum Storage Tank Systems~~. Owners and operators of petroleum storage tank (PST) systems ~~shall~~ must report to the Department within twenty-four (24) hours and follow the procedures in Subsection ~~851060~~.03 for any of the following conditions:

a. ~~The discovery by owners and operators or others of a petroleum release at the PST site or in the surrounding area other than spills and overfills described in Subsection 851060~~.04, such as the presence of free product or dissolved product in nearby surface water or ~~ground water~~ groundwater or vapors in soils, basements, sewer or utility lines.

b. ~~Unusual operating conditions observed by owners and operators such as the erratic behavior of product dispensing equipment, the sudden loss of product from the PST system, liquid in the interstitial space of secondarily contained systems, or an unexplained presence of water in the PST system, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced.~~

c. ~~Monitoring results, including investigation of an alarm, from a release detection method that indicate a release may have occurred unless :~~

~~i. ~~The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result.~~~~

~~ii. ~~In the case of inventory control, a second month of data does not confirm the initial result.~~~~

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02. Investigation Due to Off-Site Impacts. When required by the Department, owners and operators ~~shall~~ **must** follow the procedures in Subsection ~~851060.03~~ to determine if the PST system is the source of off-site impacts. These impacts include the discovery of petroleum, such as the presence of free product or dissolved product in nearby surface water or ~~ground water~~ **groundwater** or vapors in soils, basements, sewer, and utility lines, ~~that has been observed by the Department or brought to its attention by another party.~~

03. Release Investigation and Confirmation Steps. Unless corrective action is initiated in accordance with Section ~~852061~~, owners and operators ~~shall~~ **must** immediately investigate and confirm all suspected releases of petroleum within seven (7) days, or another time period specified by the Department, of discovery and using at least one (1) of the following steps or another procedure approved by the Department:

~~a. Owners and operators shall c~~ Conduct tightness tests **or, as appropriate, secondary containment testing** that determine whether a leak exists in any portion of the PST system, including the tank, the attached delivery piping, **a breach of either wall of the secondary containment**, and any connected tanks and piping. All such portions ~~shall~~ **can** be tested either separately or together or in combinations thereof, ~~as required by the Department.~~

i. ~~Owners and operators shall r~~ Repair, replace or upgrade the PST system in accordance with applicable federal, state and local laws, and begin corrective action in accordance with Section ~~852061~~ if the test results for the system, tank, or delivery piping indicate that a leak exists.

ii. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release.

iii. ~~Owners and operators shall e~~ Conduct a site check as described in Subsection ~~851060.03.b~~ if the test results for the system, tank, and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release.

~~b. Owners and operators shall m~~ Measure for the presence of a release where contamination is most likely to be present. In selecting sample types, sample locations, and measurement methods, owners and operators ~~shall~~ **must** consider the nature of the petroleum, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ~~ground water~~ **groundwater**, and other factors appropriate for identifying the presence and source of the release. Methods of sample collection and sample analysis are subject to **these rules and** Department approval.

i. If **a** release has occurred, ~~owners and operators shall~~ begin corrective action in accordance with Section ~~852061~~.

ii. If test results for the PST system do not indicate that a release has occurred, further investigation is not required.

04. Reporting and Cleanup of Above Ground ~~Spills and Overfills~~ Releases. Owners and operators shall contain and immediately clean up an above ground ~~spill or overfill~~ **release** of petroleum only after identifying and mitigating any fire, explosion, and vapor hazards.

~~a. An above ground spill or overfill of petroleum that results in a~~ **A** release that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water ~~shall~~ **must** be reported to the Department within twenty-four (24) hours and ~~owners and operators shall~~ begin corrective action in accordance with Section ~~852061~~.

~~b. An above ground spill or overfill of petroleum that results in a~~ **A** release that is less than twenty-five (25) gallons and does not cause a sheen on nearby surface water ~~shall~~ **must** be reported to the Department only if cleanup cannot be accomplished within twenty-four (24) hours.

061. PETROLEUM RELEASE RESPONSE AND CORRECTIVE ACTION.

[Section 061 moved from IDAPA 58.01.02.852 and revised]

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01. Release Response. Upon confirmation of a petroleum release in accordance with Section ~~851060~~ or after a release from the PST system is identified in any other manner, owners and operators ~~shall~~ must perform the following initial response actions within twenty-four (24) hours:

- a. Identify and mitigate fire, explosion and vapor hazards;
- b. Take immediate action to prevent any further release of petroleum into the environment; and
- c. Report the release to the Department.

02. Initial Abatement Measures. Unless directed to do otherwise by the Department, owners and operators ~~shall~~ must perform the following abatement measures:

- a. Remove as much of the petroleum from the leaking PST system as is necessary to prevent further release to the environment;
- b. Visually inspect any above ground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils, surface water and ~~ground-water~~ groundwater;
- c. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the PST site and entered into subsurface structures such as sewers or basements; and
- d. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator ~~shall~~ must comply with applicable state and local requirements.

03. Initial Site Characterization. Unless directed to do otherwise by the Department, owners and operators ~~shall~~ must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Subsection ~~852061.02~~. This information ~~shall~~ includes, but is not necessarily limited to the following data:

- a. ~~Data e~~On the nature and estimated quantity of release;
- b. ~~Data f~~From available sources and/or site investigations concerning the following factors: surrounding populations, water quality, use and approximate location of wells potentially affected by the release, subsurface soil condition, locations of subsurface sewers, climatological conditions, and land use; and
- c. ~~Data f~~From measurements that assess the site for the presence of petroleum contamination including measurements:
 - i. ~~Measurements f~~For the presence of a release where contamination is most likely to be present, unless the presence and source of the release have been confirmed in accordance with the site check ~~required by~~ described in Subsection ~~851060.03.b~~, or the closure site assessments required by applicable federal, state, or local laws. Sample types, sample locations and analytical methods are subject to these rules and Department approval and ~~shall~~ will be based on consideration of the nature of the petroleum, the type of backfill, depth to ~~ground-water~~ groundwater, and other factors appropriate for identifying the presence and source of the release; and
 - ii. ~~Measurements t~~To determine the presence of free product.
- d. Within forty-five (45) days of release confirmation, or another time specified by the Department, owners and operators ~~shall~~ must submit the information collected in compliance with Subsection ~~852061.03~~ to the Department in a manner that demonstrates its applicability and technical adequacy to be reviewed as follows, if the Department determines that the information shows:

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i. ~~If the Department determines that the information shows t~~That no further corrective action is required, owners and operators ~~shall~~ will be notified accordingly;

ii. ~~If the Department determines that the information shows petroleum c~~Contamination is limited to soils, owners and operators ~~shall~~ must treat or dispose of contaminated soils in accordance with Department guidelines, and need not perform any further corrective action;

iii. ~~If the Department determines that the information shows t~~That any of the conditions in Subsections ~~852061.05.a. through 852061.05.c. exist, owners and operators shall~~ must comply with the ~~requirements~~ provisions in Subsections ~~852061.04 through 852061.07.~~

04. Free Product Removal. At sites where investigations under Subsection ~~852061.03.c.ii. indicate the presence of free product, owners and operators shall~~ must remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Subsections ~~852061.01 through 852061.03 or preparing for actions required~~ under Subsections ~~852061.05 and 852061.06. In meeting the requirements~~ provisions of Subsection ~~852061.04, owners and operators shall~~ must:

a. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated areas by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations;

b. Use abatement of free product migration as a minimum objective for the design of the free product removal system;

c. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and

d. Unless directed to do otherwise by the Department, ~~prepare and~~ submit to the Department for review and approval, within forty-five (45) days after confirming a release, a free product removal report that provides at least the following information:

i. The name of the person(s) responsible for implementing the free product removal measures;

ii. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations;

iii. The type of free product recovery system used;

iv. Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

v. The type of treatment applied to, and the effluent quality expected from, any discharge;

vi. The steps that have been or are being taken to obtain necessary permits for any discharge; and

vii. The disposition of the recovered free product.

05. Investigations for Soil and Water Cleanup. If any of the conditions in Subsections ~~852061.05.a. through 852061.05.c. exist, and unless directed to do otherwise by the Department, owners and operators shall~~ must notify the Department and conduct investigations in accordance with Subsection ~~852061.05.d. of the release, the release site, and the surrounding area possibly affected by the release in order to determine the full extent and location of soils contaminated by the petroleum release and the presence and concentrations of dissolved product contamination in the~~ ~~ground water~~ groundwater or surface water:

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a. There is evidence that ~~ground water~~ groundwater or surface water has been affected by the release such as found during release confirmation or previous corrective action measures;

b. Free product is found to need recovery in compliance with Subsection ~~852061.04~~;

c. There is evidence that contaminated soils may affect nearby ~~ground water~~ groundwater, surface water or the public health and have not been treated or disposed of in accordance with Subsection ~~852061.03.d.ii~~.

d. Unless determined otherwise by the Department, investigations conducted under ~~this~~ Subsection, ~~852061.05, shall~~ are subject to these rules and include, but are not ~~necessarily~~ limited to the following:

i. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration;

ii. The type and age of the PST system, inventory loss, and type of containment failure;

iii. The hydrogeologic characteristics of the release site and the surrounding area;

iv. The background concentrations of contaminants in soil, surface water and ~~ground water~~ groundwater;

v. A site drawing, showing boring and monitoring well locations, nearby structures, under-ground utilities, drainage ditches, streams, suspected locations of leakage, direction of ~~ground water~~ groundwater flow, and any domestic or irrigation wells within a ~~one fourth (1/4)~~ ~~one half (1/2)~~ mile radius of the site;

vi. Information on ownership and use of any well identified pursuant to Subsection ~~852061.05.d.v~~;

vii. Site borings and well logs and rationale for choosing drilling locations, and a description of methods and equipment used for all water and soil sampling;

viii. A description of contaminant stratigraphy with accompanying geologic cross-section drawings;

ix. A demonstration and description of the horizontal and vertical extent of contamination, free product thickness, modes and rate of contaminant transport, and concentrations of dissolved constituents in surface water and ~~ground water~~ groundwater;

x. The potential effects of residual contamination on nearby surface water and ~~ground water~~ groundwater; and

xi. A discussion of laboratory analytical methods and information pertaining to laboratory certification.

e. Owners and operators ~~shall~~ must submit the information collected in investigating the release site in compliance with Subsection ~~852061.05~~ for the Department's review and approval in accordance with a schedule established by the Department as provided in Subsection ~~852061.07~~.

06. ~~Corrective Action Plan~~ CAP. At any point after reviewing the information submitted in compliance with Subsections ~~852061.01~~ through ~~852061.05~~, the Department may require owners and operators to submit additional information or to develop and submit a ~~corrective action plan~~ CAP for responding to contaminated soils, surface water and ~~ground water~~ groundwater. If a ~~plan~~ CAP is required, owners and operators ~~shall~~ must submit the ~~plan~~ CAP according to a ~~consent order or a~~ schedule and criteria established by the Department as provided in Subsection ~~852061.07~~. ~~Alternatively, owners and operators may, after fulfilling the requirements of Subsections 852.01 through 852.05, choose to submit a corrective action plan for responding to contaminated soil, surface water and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as~~

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~~necessary to meet the Department's standards.~~

~~a. The Department will approve the ~~corrective action plan~~ CAP only after ensuring that implementation of the plan will adequately protect human health and the environment. In making this determination, the Department ~~should~~ will consider the following factors as appropriate:~~

~~i. The maximum contaminant levels for drinking water or other health-based levels for water and soil ~~which that~~ consider the potential exposure pathway of the petroleum product;~~

~~ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration;~~

~~iii. The hydrogeologic characteristics of the release site and the surrounding area;~~

~~iv. The proximity, quality, and current and future uses of nearby surface water and ~~ground water~~ groundwater;~~

~~v. The potential effects of residual contamination on nearby surface water and ~~ground water~~ groundwater; and~~

~~vi. Other information assembled in compliance with Section ~~851060~~.~~

~~b. The CAP must include, but not be limited to, the following information as applicable:~~

~~i. Description of remediation standards, points of exposure, and points of compliance where remediation standards ~~shall~~ will be achieved;~~

~~ii. Description of remedial strategy and actions that will be taken to achieve the remediation standards;~~

~~iii. Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-site ~~groundwater~~; and surface water;~~

~~iv. Activity and use limitations, if any, that will be required as part of the remedial strategy;~~

~~v. Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section ~~600~~;~~

~~vi. Estimated timeline for completion;~~

~~vii. Monitoring Plan to monitor effectiveness of remedial actions;~~

~~viii. Description of practical quantitation limits as they apply; and~~

~~ix. Description of background concentrations as they apply.~~

[Subsection 061.06.b. moved from Subsection 200.03 with unnecessary restrictive words removed]

~~bc. Upon approval of the ~~corrective action plan~~ CAP pursuant to Subsection 200.04 or as directed by the Department, owners and operators ~~shall~~ must:~~

~~i. ~~Implement~~ the plan including modification to the plan made by the Department; and~~

~~ii. ~~Owners and operators shall m~~ Monitor, evaluate, and report the results of implementing the ~~plan~~ CAP in accordance with a ~~consent order or a~~ schedule and criteria established by the Department as provided in Subsection ~~852061.07~~.~~

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~~ed.~~ Owners and operators may, ~~in the interest of minimizing environmental contamination and promoting more effective cleanup,~~ begin cleanup of soil, surface water, and ~~ground water~~ groundwater before the ~~corrective action plan~~ CAP is approved provided that they:

- i. Notify the Department of their intention to begin cleanup;
- ii. Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and
- iii. Incorporate ~~these~~ the self-initiated cleanup measures in the ~~corrective action plan~~ CAP ~~that is~~ submitted to the Department for approval.

07. Compliance. If the Department determines that any of the conditions in ~~852061.05.a.~~ through ~~852061.05.c.~~ exist, owners and operators ~~shall~~ will be given an opportunity to enter into a consent order with the Department.

a. The Department ~~shall~~ will send owners and operators a consent order that sets forth at least the following schedules:

- i. A schedule ~~f~~ for owners and operators to submit the information collected in investigating the release site in compliance with Subsection ~~852061.05~~;
- ii. A schedule ~~f~~ for owners and operators to submit, and ~~a~~ criteria for, a ~~corrective action plan~~ CAP in compliance with Subsection ~~852061.06~~;
- iii. A schedule ~~f~~ for the Department to review, modify, and approve the site release investigation and ~~corrective action plan~~ CAP; and
- iv. A schedule and criteria ~~f~~ for owners and operators to implement a ~~corrective action plan~~ CAP, and monitor, evaluate, and report the results of implementing the ~~corrective action plan~~ CAP.

b. Owners and operators ~~shall~~ will be given thirty (30) days from receipt of the consent order in which to reach an agreement with the Department regarding the terms of the consent order.

c. If owners and operators cannot reach an agreement with the Department within thirty (30) days, the Department ~~shall~~ will establish a schedule and criteria with which owners and operators ~~shall~~ must comply in order to meet the ~~requirements~~ provisions of Subsections ~~852061.05~~ and ~~852061.06~~.

062. -- 099. (RESERVED)

100. CHEMICALS EVALUATED AT PETROLEUM RELEASE SITES.

01. General Applicability. For petroleum sites, ~~governed by Sections 851 and 852 of IDAPA 58.01.02, "Water Quality Standards,"~~ the chemicals listed in Section 800, table of chemicals of interest for various petroleum products, will be evaluated based on the specific petroleum product or products known or suspected to have been released. (3-31-22)

02. Additional Chemicals. Evaluation of non-petroleum chemicals in addition to those in Section 800, ~~table of chemicals of interest for various petroleum products,~~ may be required by the Department when there is a reasonable basis based on site-specific information. A reasonable basis ~~shall~~ will be demonstrated by the Department when it can show documentation of releases or suspected releases of other non-petroleum chemicals. (3-31-22)

101. -- 199. (RESERVED)

200. RISK EVALUATION PROCESS.

The following risk evaluation process ~~shall~~ must be used for petroleum releases ~~in accordance with the Petroleum Release Response and Corrective Action Rules described in IDAPA 58.01.02, "Water Quality Standards," Section 852. EPA's RSL Calculator and VISL Calculator, or other approved risk evaluation processes, may be used for screening and risk evaluations.~~ (3-31-22)

01. Screening Evaluation. The screening evaluation may be performed at any time during the release response and corrective action process ~~described in IDAPA 58.01.02, "Water Quality Standards," Section 852. The screening evaluation shall~~ and must include, at a minimum: (3-31-22)

a. Collection of media-specific (soil, surface water, ~~ground water~~ groundwater, soil vapor) data; ~~and~~ (3-31-22)

b. Identification of maximum soil, ~~ground water~~ groundwater, and soil vapor petroleum chemical concentrations for the chemicals identified in Section 800, ~~table of chemicals of interest for various petroleum products~~, as appropriate for the petroleum product or products released; ~~and~~ (3-31-22)

c. Comparison of the maximum media-specific petroleum contaminant concentrations to the EPA regional screening levels, ~~identified in the table of screening level concentrations for soil, ground water, and soil vapor in the Idaho Risk Evaluation Manual for Petroleum Releases.~~ If the maximum media-specific petroleum contaminant concentrations at a site do not exceed the screening levels, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the maximum media-specific concentrations at a site exceed the screening levels, the owner and/or operator ~~shall~~ must proceed to: (3-31-22)

i. Adopt the screening levels as cleanup levels remediation standards and develop a ~~corrective action plan~~ CAP to achieve those levels pursuant to Subsection ~~200.03~~ 061.06.b.; or (3-31-22)

ii. Perform a site-specific risk evaluation pursuant to Section 300. The Department may require the collection of additional site-specific data prior to the approval of the risk evaluation. (3-31-22)

02. Results of Risk Evaluation. If the results of the approved risk evaluation do not exceed the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the results of the approved risk evaluation indicates exceedance of the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the risk evaluation ~~shall~~ must: (3-31-22)

a. Be modified by collection of additional site-specific data, or review of chemical toxicological information, and resubmitted to the Department for review and approval; or (3-31-22)

b. Provide the basis for the development of risk-based concentrations, establishment of remediation standards as described in Section 400, and development of a ~~corrective action plan~~ CAP. (3-31-22)

~~**03. Development and Implementation of Corrective Action Plan.** A Corrective Action plan required as a result of the risk evaluation process described in Section 200 shall include, but not be limited to, the following information, as applicable:~~

~~a. Description of remediation standards, points of exposure, and points of compliance where remediation standards shall be achieved;~~

~~b. Description of remedial strategy and actions that will be taken to achieve the remediation standards;~~

~~c. Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-~~

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~~site ground water, and surface water;~~

~~d. Activity and use limitations, if any, that will be required as part of the remedial strategy;~~

~~e. Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section 600;~~

~~f. Estimated timeline for completion; and~~

~~g. Monitoring Plan to monitor effectiveness of remedial actions.~~

~~h. Description of practical quantitation limits as they apply.~~

~~i. Description of background concentrations as they apply.~~

[Subsection 200.03 renumbered and moved to Subsection 061.06.b. with unnecessary restrictive words removed]

043. Department Review and Approval of Risk Evaluation or ~~Corrective Action Plan~~ CAP. Within thirty (30) days of receipt of the risk evaluation or ~~corrective action plan~~ CAP, the Department ~~shall~~ will provide in writing either approval, approval with modifications, or rejection of the risk evaluation or ~~corrective action plan~~ CAP. If the Department rejects the risk evaluation or ~~corrective action plan~~ CAP, it ~~shall~~ will notify the owner and/or operator in writing specifying the reasons for the rejection. If the Department needs additional time to review the documents, it will provide written notice to the owner and/or operator that additional time to review is necessary and will include an estimated time for review. Extension for review time ~~shall~~ will not exceed one hundred eighty (180) days without a reasonable basis and written notice to the owner and/or operator. (3-31-22)

201. -- 299. (RESERVED)

300. SITE-SPECIFIC RISK EVALUATION ~~REQUIREMENTS~~.

01. General Requirements. The general requirements for human health risk evaluations ~~shall~~ must include, at a minimum: (3-31-22)

a. A conceptual site model ~~which~~ that describes contaminant sources; release mechanisms; the magnitude, spatial extent, and temporal trends of petroleum contamination in all affected media; transport routes; current and reasonably likely future land use and human receptors; and relevant exposure scenarios. (3-31-22)

b. Toxicity ~~i~~nformation derived from appropriate sources including, but not limited to, those listed in Subsection 300.01.e. (3-31-22)

c. Data quality objectives and sampling approaches based on the conceptual site model that support the risk evaluation and risk management process. (3-31-22)

d. Estimated exposure point concentrations for a reasonable maximum exposure based on a conservative estimate of the mean of concentrations of chemicals that would be contacted by an exposed receptor. (3-31-22)

e. Exposure analysis including identification of contaminants of concern, potentially exposed populations, pathways and routes of exposure, exposure point concentrations and their derivation, and a quantitative estimate of reasonable maximum exposure for both current and reasonably likely future land and water use scenarios. ~~The EPA's RSL and/or MISL calculators are appropriate tools for such exposure analysis. Additional or alternative appropriate reference sources of reasonable maximum exposure factor information must be reasonably justifiable ~~as include, but are not limited to:~~~~

~~(3-31-22)~~

- ~~i. U.S. EPA RAGS, Volume 1;~~
- ~~ii. U.S. EPA Exposure Factors Handbook; and~~
- ~~iii. Idaho Risk Evaluation Manual for Petroleum Releases; and~~
- ~~iv. Other referenced technical publications;~~

f. Risk characterization presenting the quantitative human health risks and a qualitative and quantitative assessment of uncertainty for each portion of the risk evaluation. (3-31-22)

g. Risk evaluations may include the use of transport and fate models, subject to Department approval of the model and the data to be used for the parameters specified in the model. (3-31-22)

02. Specific Requirements. Human health risk evaluations ~~shall~~ must, at a minimum: ~~(3-31-22)~~

a. Utilize an acceptable target risk level as defined in Section 010; (3-31-22)

b. Utilize an acceptable target hazard index as defined in Section 010; (3-31-22)

c. Utilize an acceptable target hazard quotient as defined in Section 010; (3-31-22)

d. Evaluate the potential for exposure from: (3-31-22)

i. ~~Ground water~~ Groundwater ingestion; ~~(3-31-22)~~

ii. Direct contact with contaminated soils resulting from soil ingestion, dermal contact, and inhalation of particulates and vapors; (3-31-22)

iii. Indoor inhalation of volatile chemicals via ~~volatilization~~ volatilization of chemicals from soil, ~~ground water~~ groundwater, or free phase product; ~~(3-31-22)~~

iv. Ingestion, inhalation, or dermal exposure to ~~ground water~~ groundwater and/or surface water ~~which~~ that has been impacted by contaminants that have leached from the soils; and ~~(3-31-22)~~

v. Other complete or potentially complete routes of exposure; (3-31-22)

e. Evaluate the potential for exposure to: (3-31-22)

i. Adult and child residential receptors; (3-31-22)

ii. Adult construction and utility workers; (3-31-22)

iii. Aquatic life; (3-31-22)

iv. Recreational receptors; and (3-31-22)

v. Other relevant potentially exposed receptors; (3-31-22)

f. Evaluate the potential for use of impacted ~~ground water~~ groundwater for ingestion based on: ~~(3-31-22)~~

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- i. The current and historical use of the ~~ground-water~~ groundwater for drinking water or irrigation; (3-31-22)
- ii. The location and approved use of existing ~~ground-water~~ groundwater wells in a one half (½) mile radius from the contaminated site at the release point; (3-31-22)
- iii. The degree of hydraulic connectivity between the impacted ~~ground-water~~ groundwater and other ~~ground-water~~ groundwater bearing zones or surface water; and (3-31-22)
- iv. The location of delineated source water protection areas for public drinking water systems. (3-31-22)

301. -- 399. (RESERVED)

400. ESTABLISHMENT OF REMEDIATION STANDARDS.

If, as a result of the assessment and risk evaluation completed as described in Section 300, it is determined that corrective action is required, remediation standards ~~shall~~ must be established. The remediation standards established in these rules ~~shall~~ must be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Section 9621) and Section 39-107D(2), Idaho Code, taking into consideration site-specific conditions. These standards, and any activity use limitations proposed for the site, ~~shall~~ must be established as part of a ~~corrective action plan~~ CAP approved in writing by the Department. The standards may consist of the following or combinations of the following. (3-31-22)

01. Screening Levels. The petroleum contaminant concentrations in soil, ~~ground-water~~ groundwater, and soil vapor in the ~~table of screening level concentrations for soil, ground-water, and soil vapor in the Idaho Risk Evaluation Manual for Petroleum Releases~~ EPA RSLs Tables. (3-31-22)

02. Risk-Based Levels. Site-specific, media-specific petroleum contaminant concentrations established in accordance with the risk evaluation procedures ~~and requirements~~ described in Section 300. (3-31-22)

03. Generic Health Standards. An established state or federal generic numerical health standard ~~which~~ that achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. (3-31-22)

~~**04. Other.** Remediation standards may be a combination of standards found in Subsections 400.01 through 400.03.~~ (3-31-22)

401. -- 499. (RESERVED)

500. FACTORS WHEN PRACTICAL QUANTITATION LIMITS ARE GREATER THAN SCREENING LEVELS AND CLEANUP LEVELS.

Practical quantitation limits may be greater than screening levels or risk-based concentrations for certain chemicals. In such cases the following factors, or others, may be used in allowing practical quantitation limits as remediation standards: (3-31-22)

01. Analytical Method. The published or expected practical quantitation limit for a specific chemical and method, and the availability of other methods ~~which~~ that may enable lower practical quantitation limits to be achieved. (3-31-22)

02. Method Detection Limit. The magnitude of the difference between the stated practical quantitation limit and the method detection limit. (3-31-22)

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03. Sampling Procedures. The availability of alternative sampling procedures ~~which that~~ may enable lower practical quantitation limits to be achieved. (3-31-22)

04. Estimated Risk Levels. The estimated risk levels when site concentrations are assumed to be at the practical quantitation limit. (3-31-22)

~~**05. Other. Site specific factors other than those listed above.** (3-31-22)~~

501. -- 599. (RESERVED)

600. ACTIVITY AND USE LIMITATIONS.

01. Purpose. The provisions of the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code, may be utilized to create restrictions and/or obligations regarding activity and use to protect the integrity of a cleanup action and assure the continued protection of human health and the environment. Activity and use limitations ~~shall may~~ be proposed as elements of a ~~corrective action plan CAP~~ in at least the following circumstances: (3-31-22)

a. Where onsite current or proposed land use is not residential and maximum residual site concentrations are greater than screening levels for residential use; (3-31-22)

b. Where onsite current or proposed land use is not residential and the risk or hazard calculated for residential receptors through an approved risk evaluation is unacceptable; (3-31-22)

c. Where off-site ~~ground water groundwater~~ concentrations exceed residential use screening levels or risk-based concentrations; or (3-31-22)

d. When the Department determines, based upon the proposed ~~corrective action plan CAP~~, that such activity and use limitations are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. (3-31-22)

02. Documentation of Controls. Activity and use limitations, approved by the Department, ~~shall must~~ be described in an environmental covenant executed pursuant to the UECA and ~~shall must~~ be incorporated into a ~~corrective action plan CAP~~. (3-31-22)

~~**03. Removal of Activity and Use Limitations.** Activity and use limitations may be removed from a site in accordance with Sections 55-3009 and 55-3010, Idaho Code, of UECA. (3-31-22)~~

601. -- 699. (RESERVED)

700. DEVELOPMENT OF GUIDANCE MANUAL.

~~The Department will prepare a risk evaluation manual for petroleum releases which will be used as guidance for implementation of these rules. The Department will, through public notice, invite the Board of Trustees established in Section 41-4904, Idaho Code, and members of the public, including the regulated community, to participate in the process to provide input to the Department in developing this manual. If the Department identifies the need for future substantive revisions of the risk evaluation manual for petroleum releases, the Department will follow the same public notice process as described above.~~ **If any material the Department identifies the need for future substantive revisions to of the risk evaluation manual for petroleum releases are required, the Department will, through public notice, invite the Board of Trustees established in Section 41-4904, Idaho Code, and members of the public, including the regulated community, to participate in making such revisions. Material revisions are those changes which result in or could reasonably result in a different interpretation or use of any provision of the guidance manual.** (3-31-22)

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701. -- 799. (RESERVED)

800. TABLE.

Chemicals of Interest for Various Petroleum Products:

CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS				
Chemical	Gasoline/ JP-4/ AVGas	Diesel/ Fuel Oil- No. 2/ Kerosene	Fuel Oil- No.4	Jet Fuels (Jet A, JP-5, JP-8)
Benzene-	X	X		X
Toluene-	X	X		X
Ethyl benzene-	X	X		X
Xylenes (mixed)-	X	X		X
Ethylene Dibromide 1,2-Dibromoethane (EDB)-	X ⁺			
1,2-Dichloroethane (EDC)-	X ⁺			
Methyl Tert-Butyl Ether (MTBE)-	X			
Acenaphthene-		X	X	X
Anthracene-		X	X	X
Benzo(a)pyrene-		X	X	X
Benzo(b)fluoranthene-		X	X	X
Benzo(k)fluoranthene-		X	X	X
Benz(a)anthracene-		X	X	X
Chrysene-		X	X	X
Fluorene-		X	X	X
Fluoranthene-		X	X	X
Naphthalene-	X	X	X	X
Pyrene-		X	X	X
X ⁺ Leaded Regular Only				

(3-31-22)

CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS				
Chemical	Gasoline/ JP-4/ AVGas	Diesel/ Fuel Oil No. 2/ Kerosene	Diesel/ Fuel Oil No. 2/ Kerosene	Fuel Oil No.4
Benzene	X	X	X	
Toluene	X	X	X	
Ethyl benzene	X	X	X	
Xylenes (mixed)	X	X	X	
Ethylene Dibromide (EDB)	X ¹			
1,2 Dichloroethane (EDC)	X ¹			
Methyl Tert-Butyl Ether (MTBE)	X			
Acenaphthene *		X		X
Anthracene *		X		X
Benzo(a)pyrene *		X		X
Benzo(b)fluoranthene *		X		X
Benzo(k)fluoranthene *		X		X
Benz(a)anthracene **		X		X
Chrysene *		X		X
Fluorene *		X		X
Fluoranthene *		X		X
Naphthalene	X	X	X	X
Pyrene *		X		X

X¹ Leaded Regular Only

*Vapor intrusion is not applicable. There is no available inhalation toxicity information and/or the chemical is not sufficiently volatile and toxic to pose an inhalation risk via vapor intrusion from a soil source pursuant to VISL model output (default values).

**Chemical is not practically analyzable to achieve VISL-calculated (default values) screening level.

801. -- 999. (RESERVED)