

[Home](https://www.deq.idaho.gov/) (https://www.deq.idaho.gov/) / Water Quality: Docket No. 58-0102-2201

Water Quality: Docket No. 58-0102-2201

This rulemaking was initiated to update Idaho's human health criteria for arsenic. Negotiated under **Docket No. 58-0102-1801** (https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/water-quality-docket-no-58-0102-1801/) and proposed under Docket No. 58-0102-2201.

#### Status of Rulemaking/Guidance Development

Pending rule adopted by the Board on May 26, 2022. Final and effective upon adjournment of 2023 legislative session if approved by the Legislature. DEQ held an in-person and virtual kickoff meeting on November 15, 2022, for the development of guidance for pending rule updates to Idaho's human health criteria for arsenic.

#### Overview

DEQ held an in-person and virtual kickoff meeting on November 15, 2022, for the development of guidance for pending rule updates to Idaho's human health criteria for arsenic. DEQ will develop the implementation guidance through a cooperative stakeholder process with partner agencies and interested parties.

The updates to Idaho's human health criteria for arsenic were negotiated under **Docket No. 58-0102-1801** (https://www.deq.idaho.gov/water-quality-docket-no-58-0102-2201/) and published as a proposed rule under **Docket No. 58-0102-2201** (https://www.deq.idaho.gov/water-quality-docket-no-58-0102-2201/). The pending rule was adopted by the Idaho Board of Environmental Quality on May 26, 2022, and will be submitted to the Idaho Legislature for review during the 2023 legislative session. The pending rule includes the rule as initially proposed along with revisions in Subsections 210.01.b., Footnote k, and, 210.03.e. and is available **here** (https://www2.deq.idaho.gov/admin/LEIA/api/document/download/16870). Once the pending rule is approved by the Idaho Legislature, DEQ will submit the rule to EPA for review.

#### Background

In May 2016, EPA entered into a Consent Decree with Northwest Environmental Advocates to reconsider EPA's 2010 approval of Idaho's human health criteria for arsenic. In September 2016, EPA disapproved Idaho's human health criteria of 10 µg/L arsenic for both consumption of fish only and consumption of fish & water. The **Consent Decree** (https://www2.deq.idaho.gov/admin/LEIA/api/document/download/14658) requires that EPA propose new human health criteria for arsenic by November 15, 2018, and that EPA either approve Idaho's submittal of revised human health criteria for arsenic or promulgate federal criteria by July 15, 2019.

In June 2018, the Court granted the **Unopposed Motion to Modify Consent Decree** (https://www2.deq.idaho.gov/admin/LEIA/api/document/download/14661), extending the Consent Decree Paragraph 5 deadlines to November 15, 2022, and the Paragraph 6 deadlines to November 15, 2023.

In June 2022, the Court granted the **Unopposed Second Motion to Modify Consent Decree** (https://www2.deq.idaho.gov/admin/LEIA/api/document/download/16999), extending the Consent Decree Paragraph 5 deadlines to November 15, 2023, and the Paragraph 6 deadlines to November 15, 2024.

The Consent Decree and modifications are posted as Additional Information on **negotiated rulemaking web page Docket No. 58-0102-1801** (https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/water-quality-docket-no-58-0102-1801/).

This rulemaking will enable Idaho to adopt human health criteria for arsenic under state rulemaking and may prevent federal promulgation of criteria for Idaho by EPA.

#### Guidance Development Meeting Schedule

No meeting scheduled.

#### Method for Participating and Submitting Comments

## Previous Meetings

No meeting scheduled

November 15, 2022 -

### **Participant List**

(<https://www2.deq.idaho.gov/admin/LEIA/api/document/download/17301>)

Those interested in participating in the guidance development process are encouraged to attend the scheduled meetings.

Submit all written comments and direct questions to:

Beth Spelsberg

Idaho Department of Environmental Quality

1410 N. Hilton, Boise, ID 83706

**[elizabeth.spelsberg@deq.idaho.gov](mailto:elizabeth.spelsberg@deq.idaho.gov)**

(<mailto:elizabeth.spelsberg@deq.idaho.gov>)

### ∨ **Guidance Documents and Meeting Presentations**

∧ ( )