



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
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WATER  
DIVISION

November 30, 2022

Beth Spelsberg  
Idaho Department of Environmental Quality  
1410 N. Hilton  
Boise, ID 83706  
[elizabeth.spelberg@deq.idaho.gov](mailto:elizabeth.spelberg@deq.idaho.gov)

Re: EPA Comments on the Proposed Outline for the Arsenic Guidance Document

Dear Ms. Spelsberg:

Thank you for the opportunity to provide comments on the Idaho Department of Environmental Quality (DEQ) draft outline for the arsenic human health criteria implementation guidance. The U.S. Environmental Protection Agency (EPA) is supportive of DEQ's approach to develop the guidance with stakeholder input and to finalize the guidance document prior to submittal of the adopted rule for EPA review and action pursuant to the Clean Water Act section 303(c).

EPA offers the following comments for your consideration. In addition to the specific comments on the proposed outline, we offer several general comments and suggestions for the development of the guidance.

### **Comments on the Proposed Outline for the Guidance Document**

The proposed outline presented at the November 15, 2022, meeting includes a heading titled "*Mode of action and toxicity of inorganic arsenic to fish.*" However, since this guidance is specific to implementation of the human health criteria, it appears that this heading is not necessary.

Similarly, under the "*Human Health Criteria for Arsenic – Water and Fish*" heading there are subheadings for both "*Fish Tissue*" and "*Water Column.*" Since the pending rule only includes a water column element for the Water and Fish criterion, there should not be a "*Fish Tissue*" heading. EPA recommends removing this heading to avoid confusion.

### **Clearly Define Terms**

The November 15, 2022, presentation included several "*Implementation Considerations.*" EPA recommends DEQ clearly define the following terms:

- New activity
- Water body

- Immediate downstream waters
- Current conditions
- Annual average concentrations
- Scientifically defensible

In addition, the guidance should define how DEQ interprets the following:

- Game fish
- Sufficiently sensitive methods
- Fishless waters
- Sufficient fish tissue data

The guidance should also describe how DEQ will determine that game fish species are representative of the size and species legally harvested at a site, and the document should provide guidance on determining trophic level for Idaho fish species.

#### **Water Column Translation**

The guidance should clearly identify the minimum data requirements for calculating site specific water column translations of the fish tissue criterion.

The guidance should detail how site-specific translations will be applied and communicated to the regulated community and the public. For example, will translations be application specific (e.g., specific to a particular TMDL or IPDES permit)? The guidance should be specific about how DEQ intends to notify the regulated community and the public of site-specific translations, as well as the process for others to evaluate the defensibility of site-specific translations.

We look forward to continuing to work with DEQ as you provide additional details and further develop the arsenic human health criteria implementation guidance. If you have any questions, please feel free to contact me at (208) 378-5756 or at [pappani.jason@epa.gov](mailto:pappani.jason@epa.gov).

Sincerely,



Jason Pappani  
Idaho WQS Coordinator