

# **Idaho Pollution Discharge Elimination System Compliance Monitoring Strategy**

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DRAFT



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**May 2016**



Printed on recycled paper, DEQ, May 2016, PID  
IPGF, CA code 81236. Costs associated with this  
publication are available from the State of Idaho  
Department of Environmental Quality in accordance  
with Section 60-202, Idaho Code.

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## Acronyms, Abbreviations, and Symbols

AFO	animal feeding operation
API	annual plan for inspections
BMP	best management practice
CAAP	concentrated aquatic animal production
CAFO	concentrated animal feeding operation
CFR	Code of Federal Regulations
CGP	Construction General Permit
CMS	compliance monitoring strategy
CSO	combined sewer overflow
CSS	combined sewer system
CWA	Clean Water Act
DEQ	Idaho Department of Environmental Quality
DMR	discharge monitoring report
DWGP	Drinking Water General Permit
ECHO	Enforcement and Compliance History Online
EPA	US Environmental Protection Agency
ICIS	Integrated Compliance Information System
IDAPA	Idaho Administrative Procedure Act (numbering designation)
IPDES	Idaho Pollutant Discharge Elimination System
ISDA	Idaho State Department of Agriculture
ITM	Inspection Targeting Model
IU	industrial user
MGD	million gallons per day
MS4	municipal separate stormwater systems
MSGP	Municipal Stormwater General Permit
NPDES	National Pollutant Discharge Elimination System

OECA	EPA Office of Enforcement and Compliance Assurance
POTW	publicly owned treatment works
QA	quality assurance
QAPP	quality assurance project plan
QC	quality control
SIU	significant industrial user
SNC	significant noncompliance
SSS	sanitary sewer system
SWPPP	stormwater pollution prevention plan
TMDL	total maximum daily load
VGP	Vessel General Permit

## 1 Introduction

Compliance monitoring is a fundamental component of the Idaho Pollutant Discharge Elimination System (IPDES) program. The primary goal of the IPDES compliance monitoring program is to ensure and document whether entities regulated under the IPDES and pretreatment programs are complying with the IPDES rules and statutory provisions that implement the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) program.

The IPDES compliance monitoring program strives to accurately identify and document noncompliance, support the enforcement process, monitor compliance with enforcement orders, establish a presence in the regulated community, deter noncompliance, support the permitting process, and further broaden the Idaho Department of Environmental Quality (DEQ) Water Quality Division's watershed protection and restoration goals. This compliance monitoring strategy (CMS) provides the framework for meeting national recommendations and minimum frequencies for compliance monitoring activities by tailoring the national NPDES CMS (EPA 2014) for Idaho.

The IPDES CMS addresses inspections for major and traditional nonmajor permittees, pretreatment, biosolids, wet weather sources (combined sewer systems [CSSs], sanitary sewer systems [SSSs], municipal separate stormwater systems [MS4s], and industrial and construction stormwater), and concentrated animal feeding operations (CAFOs) and is organized into the following sections:

- Section 2—Provides a brief background of changes to US Environmental Protection Agency's (EPA's) NPDES CMS.
- Section 3—Describes CMS implementation and the collaboration between DEQ and EPA Region 10.
- Section 4—Details national goals for compliance monitoring frequency based on the type of IPDES discharger.
- Section 4.9.2—Details goals for compliance monitoring for sources with no currently established national goal.
- Section 6—Describes the different types of monitoring activities that an inspector may perform at any given facility.
- Section 7—Summarizes sections 4 through 6 in tabular format.

In addition, this CMS addresses compliance monitoring of pesticide operators and vessels that are regulated under the IPDES program. After implementing this CMS, DEQ will work with EPA to assess the need for additional tools and guidance, such as forms or checklists, and to determine what constitutes a focused inspection and an off-site desk audit.

## 2 Background

Regulations found at 40 CFR 123.26 outline the requirements for compliance evaluation programs for states with NPDES program authorization. This IPDES CMS addresses the following sections of 40 CFR 123.26:

(b) State programs shall have inspection and surveillance procedures to determine, independent of information supplied by regulated persons, compliance or noncompliance with applicable program requirements. The State shall implement and maintain:

(1) An automated, computerized system which is capable of identifying and tracking all facilities and activities subject to the State Director's authority and any instances of noncompliance with permit or other program requirements (e.g., identifying noncompliance with an automated, computerized program to compare permit limits to reported measurements). State programs must maintain a management information system which supports the compliance evaluation activities of this part (e.g., source inventories; compliance determinations based upon discharge monitoring reports, other submitted reports, and determinations of noncompliance made from inspection or document reviews; and subsequent violation notices, enforcement actions, orders, and penalties) and complies with 40 CFR part 3 (Cross-Media Electronic Reporting Regulation) and 40 CFR part 127 (NPDES Electronic Reporting Requirements). State programs may use EPA's national NPDES data system for their automated, computerized system;

(2) A program for periodic inspections of the facilities and activities subject to regulation. These inspections shall be conducted in a manner designed to:

- i) Determine compliance or non-compliance with issued permit conditions and other permit requirements
- ii) Verify the accuracy of information submitted by permittees and other regulated persons in reporting forms and other forms supplying monitoring data;
- iii) Verify the accuracy of sampling, monitoring and other methods used by permittees and other regulated persons to develop that information; and
- iv) Protect surface waters and public health

(3) A program for investigating information obtained regarding violations of applicable program and permit requirements;

and

(e) State NPDES compliance evaluation programs shall have procedures and ability for:

(1) Maintaining an automated, computerized system which is capable of managing the comprehensive electronic inventory of all sources covered by NPDES permits and generating an electronic schedule of reports required to be submitted by permittees to the State agency. (Note: State programs may use EPA's national NPDES data system for their automated, computerized system.);

(2) Initial screening (i.e., pre-enforcement evaluation) of all permit or grant-related compliance information to identify violations and to establish priorities for further substantive technical evaluation;

(3) When warranted, conducting a substantive technical evaluation following the initial screening of all permit or grant-related compliance information to determine the appropriate agency response;

(4) Maintaining a management information system which supports the compliance evaluation activities of this part; and

(5) Inspecting the facilities of all major dischargers at least annually.

Analogous regulations for the pretreatment program are set forth in 40 CFR 403.10(f)(2).

Compliance monitoring programs are challenged by tightened budgets at all levels of government and the growing concern of the effects of wet weather dischargers on public health and the environment. Nationwide, implementing the 2007 NPDES CMS deterred noncompliance

in the most significant environmental areas by increasing effort in NPDES program areas that impact water quality in priority watersheds and water segments.

In 2013, EPA engaged in a national dialogue on expanding compliance monitoring. As a result of that dialogue, in 2014 EPA's Office of Enforcement and Compliance Assurance (OECA) again revised the NPDES CMS to draw on important compliance monitoring activities integral to the program today and to better encompass the planning process needed to ensure consistent national implementation according to EPA goals and priorities.

The 2014 NPDES CMS provides circumstances where the IPDES program may use *focused compliance inspections* and *off-site desk audits* in addition and complementary to traditional comprehensive inspections. This change expands the flexibilities from the 2007 NPDES CMS, which did not provide for off-site desk audits or focused inspections, to count toward any of the national goals. OECA made these changes to allow agencies greater flexibility to focus and efficiently deploy their resources on their most significant environmental concerns and pollution problems through an alternative CMS plan.

The IPDES CMS reflects EPA's 2014 CMS key concepts of next generation compliance, including electronic reporting, increased transparency and technological advances, and offers additional flexibilities to DEQ in determining the most effective use of limited compliance monitoring resources. For example, implementing this policy will facilitate increased use of next generation targeting tools, such as the CWA Inspection Targeting Model, on-line compliance user interface, and EPA's Pollutant Loading Tool (available through Enforcement and Compliance History Online [ECHO]). Using the ECHO state dashboard for Idaho and e-reporting to better manage IPDES compliance monitoring activities across the state will improve program transparency.

### **3 IPDES Compliance Monitoring Strategy Implementation**

Every year DEQ and EPA Region 10 prepare a performance partnership agreement and state inspection work plan regarding various water program commitments and potential resource leveraging. The national goals in the 2014 NPDES CMS policy, many of which have built-in flexibilities, are a starting point for negotiations. The IPDES program will use flexibilities in the national policy to tailor inspection frequency goals that target compliance monitoring resources on facilities posing the greatest threat to water quality. For example, DEQ may reduce the inspection frequency of those facilities demonstrating compliance while shifting resources to increase follow-up inspections of facilities with previously identified reoccurring or numerous noncompliance issues.

This CMS focuses DEQ inspection resources; it is not intended to allocate resources away from other IPDES program areas. DEQ will work closely with EPA Region 10 to plan compliance monitoring activities for all NPDES sources covered by this policy and to ensure an effective inspection presence in each direct implementation program area. The process to implement the compliance monitoring goals articulated in this CMS balances coverage across IPDES programs by considering factors such as noncompliance trends, water quality considerations of the state, and state resources.

This planning process, guided by the criteria and goals articulated in this policy, provides an opportunity to identify state-specific circumstances and encourage both, inter/intra-agency dialogue on the approaches the state expects to implement. The outcome of the annual planning process will then be documented in the annual plan for inspections (API). Examples of state-specific circumstances include risks to water quality by a particular pollutant, permitted sector, and geographic area or watershed. DEQ's API provides consistent implementation of both state and national CMS goals.

The API will be updated on an annual basis including estimates and annual commitments for every applicable metric covered by the CMS policy. This CMS establishes goals for only those sources DEQ is committed to regulate (e.g., DEQ does not issue permits for dredge and fill activities). The majority of national recommended minimum inspection frequencies in the 2014 NPDES CMS are multiyear goals (e.g., inspect all traditional nonmajor facilities at least once every 5 years). This means DEQ will look across multiple years to evaluate whether the commitments for a given year indicate that the state is on track to meet the national goals. To set inspection commitments that meet the goals in this policy, the API will reflect the number of facilities to be inspected by IPDES personnel.

EPA and state compliance monitoring planning will rely on compliance data obtained from the Integrated Compliance Information System (ICIS)-NPDES; IPDES database; compliance monitoring activities in at least the most recent prior year; field reconnaissance; institutional knowledge; and citizen tips and complaints. To support water quality attainment goals, the compliance monitoring planning process will increasingly be influenced by information on water quality impairments to which facilities may be contributing (pursuant to listings under CWA §303(d)) and other relevant water quality data.

As discussed in sections 4.1 and 4.2, Idaho will use the CWA Inspection Targeting Model, and/or the Discharge Monitoring Report (DMR) Pollutant Loading Tool to preliminary screen, identify inspection targets, and develop a compliance monitoring plan. DEQ expects to actively engage with EPA in developing future CMS commitments and accounting for end-of-year reports on actual activities.

### **3.1 Alternative CMS**

An alternative CMS is one that includes one or more compliance monitoring commitments that deviate from the national goals by incorporating flexibilities set forth in Part 2 of the 2014 NPDES CMS. As compared to the national goals, an alternative CMS could include modified frequency of comprehensive inspections, modified compliance monitoring activities (e.g., off-site desk audit), or a combination of the two. Until the IPDES program has a better understanding of the ability to meet or exceed the national goals, DEQ will adopt a traditional approach to compliance monitoring by implementing established national frequency goals; however, an alternative CMS may be considered. The process for developing an alternative CMS is described in section 7.

### 3.2 Performance Measurement and Reporting

DEQ will use existing procedures to assess performance. In addition, DEQ may periodically compare state commitments to actual compliance monitoring activities recorded in ICIS-NPDES and/or end-of-year API reports. The goals of any performance assessment are to identify strengths and address weaknesses in the state's compliance monitoring programs, develop mutual commitments with EPA to achieve ongoing program improvement, increase program transparency, and promote statewide consistency.

DEQ will develop an annual end-of-year report summarizing the prior year's plan implementation, regardless of whether it was a traditional or alternative plan. The API and end-of-year reports will include appropriate data to enable DEQ to compare actual compliance monitoring activities against the annual commitments. The IPDES program will upload all actual compliance monitoring activities into ICIS-NPDES so that the end-of-year reports can be generated through standard ICIS-NPDES reports that correspond to the CMS metrics.

Several data entry activities are relevant to implementing this IPDES CMS:

1. DEQ may choose to enter annual compliance monitoring commitments into ICIS-NPDES by using the *planned inspection indicator* to tag facilities DEQ plans to inspect that year. OECA will aggregate commitment information available in ICIS-NPDES and use it on the ECHO dashboards to display state performance related to CMS commitments. Facility-specific information about a state's inspection plans will not be made publicly available.
2. State compliance monitoring activities conducted pursuant to this CMS will be reported in ICIS-NPDES (through the CDX National Environmental Information Exchange Network) according to all applicable data entry requirements, which includes any future regulations that establish data requirements and reporting time frames.
3. DEQ will update ICIS-NPDES with data about focused inspections or off-site desk audits conducted pursuant to an alternative CMS according to expectations described in this CMS.

### 3.3 Oversight

If a DEQ office demonstrates long-standing problems with significant aspects of their enforcement activities, the compliance inspection and enforcement supervisor may initiate direct enforcement actions to ensure a fair and level playing field. Instances that may warrant action include the following:

1. An office has exhibited a widespread and long-standing failure to identify serious violations and initiate enforcement actions with penalties sufficient to
  - a. Achieve compliance
  - b. Deter others from violating the law
  - c. Make it more expensive to violate permit conditions than to comply.
2. An office has regularly failed to take actions to protect water quality or to act in particular regulated sectors that have a significant impact on water quality (e.g., stormwater construction).

3. An enforcement program review has identified significant issues that an office has not remedied within a quarterly review cycle, indicating an overall inability to maintain the integrity of the NPDES program.

The IPDES program will focus oversight resources to the most pressing performance problems. To address the performance issues listed above, the following actions will work toward demonstrably improving state programmatic performance:

- **Targeting** will identify the most serious sources of pollution and the most serious violations. Targeting will drive API development to ensure the most significant facilities are inspected and monitored. The API will be shared with EPA to ensure there is no unintended or unnecessary duplication of effort.
- **Routine and regular meetings will be held between staff to discuss progress** towards meeting the annual commitments, and how the state is performing overall in the IPDES program. At a minimum, these meetings (or conference calls) will include annual planning with a review of end-of-year results and a midyear check-in, although more frequent communications are encouraged. These meetings will include a holistic discussion of annual water quality attainment, permitting, and enforcement goals and expectations.
- **Regular reviews of state performance** may be done to ensure fair and consistent protection of human health and the environment. Results of current permit quality and enforcement reviews will be aligned and considered together to ensure that permits are protective and enforceable and that violations of permits are addressed in an appropriate manner.

These actions will allow the IPDES program to address the most serious pollution sources and violations and hold staff accountable for their performance. Shared accountability for the environment and human health implemented through these steps will result in stronger collaboration throughout the state. These short-term actions will test the direction of the program and will provide lessons to DEQ moving forward.

DEQ will also consider the following when conducting oversight activities: (1) significant changes in program structure or personnel; (2) a new regulatory structure is being implemented; (3) an office reports low violation identification or inspection coverage rates; or (4) irregular patterns in tips/complaints from citizens.

## 4 IPDES Sources with National Monitoring Frequency Goals

The national recommended minimum frequencies and activity types differ across the metrics to account for the differences among the various permit sectors covered by the IPDES program, including numbers of regulated entities, complexities in compliance monitoring, regulatory requirements, and the history and status of compliance. Under certain circumstances more frequent compliance monitoring is warranted. For example, sources located near sensitive areas (i.e., drinking water intakes) and/or designated high quality waters may need to be monitored more frequently than the recommended minimum goals in the metrics described in this section. An API that is consistent with the minimum goals and flexibilities in each of the following metrics is considered a *traditional plan*, not an *alternative plan*.

All compliance monitoring and evaluation activities will be undertaken in a manner that leads to timely, appropriate, and effective follow-up response to an identified noncompliance (e.g., informal response or formal enforcement action consistent with the IPDES Enforcement Response Guide (DEQ 2016a). On-site inspections will be conducted by an authorized inspector. Inspectors conducting evaluations will comply with DEQ's inspection policies and processes. Inspectors conducting inspections for DEQ will receive DEQ-led training before being authorized by DEQ.

The following sections describe the monitoring frequency and type for each metric. Section 6 provides a guide to the acceptable ICIS-NPDES compliance monitoring types and their corresponding codes, which will be used for to enter data for activities conducted pursuant to the national recommended frequency goals described below.

#### **4.1 Major Permittees Metrics**

Major NPDES permits cover discharges from publicly owned treatment works (POTW) facilities with designed discharge flows of greater than 1 million gallons per day (MGD), or facilities that serve a population of 10,000 or more or cause significant water quality impacts. NPDES permits covering active major industrial facilities scoring more than 80 for the six factors on the IPDES Permit Rating Work Sheet (DEQ 2016b) are also considered major permittees.

*According to the 2014 NPDES CMS, OECA's goal for state inspection of major permittees is a minimum frequency of at least one comprehensive inspection every 2 years.* Inspections of major POTWs may be conducted with inspections of SSSs and their satellites, and CSSs that are connected to the POTW. Currently, information on the percentage of Idaho major permittees that have received a comprehensive inspection within the most recent two completed federal fiscal years is publicly displayed on the ECHO state performance dashboards at <https://echo.epa.gov/trends/comparative-maps-dashboards/state-water-dashboard?view=activity&state=ID>.

The national policy includes an alternative approach for inspecting major NPDES permittees; DEQ will implement this approach using the CWA Inspection Targeting Model (ITM). ITM is used to distinguish between facilities that have strong records of compliance and those who have records indicating compliance problems, particularly effluent violations for pollutants that may be contributing to water quality impairments reflected in CWA §303(d) listings. Under this available alternative, DEQ may use ITM, or a comparable targeting methodology, to adjust the inspection frequency to one comprehensive inspection every 3 years for NPDES major facilities that are in compliance, not subject to any credible citizen tips or complaints, and are not contributing to CWA §303(d)-impaired waters listings based on the most current data available when developing the API. DEQ will implement this flexible approach according to future guidance about how to use the ITM and/or revisions to the ITM methodology. Facilities that do not meet these criteria will remain subject to a minimum comprehensive inspection frequency of once every 2 years. An API that uses this approach for decreasing inspection frequency of some major permittees is still considered part of a traditional CMS.

## 4.2 Traditional Nonmajor Permittees Metrics

Traditional nonmajor NPDES permits cover POTW facilities with designed discharge flows of less than 1 MGD and serving populations of less than 10,000 persons or active nonmajor industrial facilities (i.e., facilities scoring less than 80 for the six factors on the IPDES Permit Rating Work Sheet) that have not been designated as a discretionary major permittee by DEQ. This metric does not include concentrated aquatic animal production (section 5.1). The minimum inspection frequency goals recommended in section 4.2.1 and section 4.2.2 are intended to apply to traditional nonmajor facilities covered by both individual and general permits.

Compliance monitoring goals for nonmajor facilities in the wet weather program areas are articulated under separate metrics in this CMS.

*OECA's minimum compliance monitoring goals for each traditional nonmajor facility are once in every 5 years.* The type of inspection conducted during that time may vary depending on factors listed in the following sections. Inspections of traditional nonmajor POTWs may be conducted with inspections of SSSs (and their satellites) and CSSs that are connected to the POTW facilities. The screening process for selecting nonmajor facilities to be inspected should be attentive to facilities that do not appear, based on available data, to have been inspected in more than 5 years or that have histories of noncompliance; are the subject of citizen tips or complaints; and/or may be contributing to violations of water quality standards.

DEQ may use the ITM sorting tool for preliminary screening and to identify inspection targets for traditional nonmajor facilities under this metric. The sorting tool does not use weightings due to concerns about the current completeness of data for traditional nonmajor facilities and how that might affect the results obtained from a weighted model. DEQ may analyze the data in a spreadsheet and include additional state data (beyond what is available in ICIS-NPDES) that would increase the rigor of the analysis. The sorting tool allows DEQ to sort facilities based on factors that include water quality impairments; associated pollutants that may be discharged by the permittee; significant noncompliance (SNC) within the most recent 2 years; unresolved single-event violations; days since last comprehensive inspection; days since last inspection (all types); and current enforcement actions. DEQ may also elect to use the DMR Pollutant Loading Tool (<http://cfpub.epa.gov/dmr/>) to look at pollutant loadings that exceed permit limits to focus on the biggest polluters.

### 4.2.1 No Contribution to CWA §303(d)-Listed Impairments

*The minimum inspection frequency goal is to inspect each traditional nonmajor facility that is not contributing to CWA §303(d) impairments at least once every 5 years.* In addition to the comprehensive inspection types<sup>1</sup>, the following inspection types will count toward this metric: focused, reconnaissance, enforcement follow-up, oversight, and sludge/biosolids. These noncomprehensive inspections will be counted under this metric because these facilities are not discharging pollutants that contribute to listed impairments.

#### **4.2.2 Discharge One or More Pollutants Relevant to an Impairment on CWA §303(d) List**

*Traditional nonmajor facilities permitted to discharge pollutants of concern corresponding to the CWA §303(d)-listing parameter should undergo a comprehensive inspection at least once every 5 years.* Of the traditional nonmajor permittees that discharge to CWA §303(d)-listed waters, OECA expects that due to the nature of their discharges, some are not contributing to the water quality conditions that have resulted in the listed impairment. Such facilities on impaired waters that are not contributing to the impairment may be inspected with a less comprehensive inspection (e.g., a reconnaissance inspection) under the metric in section 4.2.1.

During the annual planning process, DEQ will determine which traditional nonmajor facilities to comprehensively inspect by carefully reviewing available information on the permittees, such as noncompliance information and complete and current ambient monitoring information for the receiving waters to which the permittees discharge. Where information indicates patterns of noncompliance or uncertainty about the status of receiving waters, strong consideration will be given to using a comprehensive inspection. To ensure a minimum level playing field, DEQ will conduct a comprehensive inspection of at least 5% of all traditional nonmajor facilities each year even if more facilities qualify for noncomprehensive inspection under the metric in section 4.2.1.

### **4.3 Pretreatment Program Metrics**

Routine compliance monitoring activities for the pretreatment program include audits and inspections of POTWs with approved pretreatment programs; review of all POTW pretreatment program annual reports; inspections of industrial users (IUs); and oversight of state pretreatment programs that are implemented pursuant to 40 CFR 403.10(e) (i.e., where DEQ functions as the control authority in lieu of approved local pretreatment programs). In addition to the specific pretreatment program compliance monitoring activities outlined under the metrics below, DEQ (as the approval authority responsible for approving local pretreatment programs) will track the POTW annual reports submitted pursuant to 40 CFR 403.12(i) and review 100% of all submissions to determine if the POTW is properly implementing its approved pretreatment program, including, as appropriate, oversight and enforcement of significant industrial users (SIUs). Inspections of nonsignificant IUs will generally be dictated by problem facilities or those issued a consent order by DEQ or the control authority. Inspections of IUs suspected of or documented to have compliance problems may be incorporated into a pretreatment compliance inspection or pretreatment audit.

#### **4.3.1 Pretreatment Audits**

*As a pretreatment approval authority, DEQ will conduct at least one audit every 5 years of each POTW with an approved pretreatment program, generally corresponding to an annual audit rate of 20% of active approved programs.* DEQ will audit two or three programs annually.

*A pretreatment audit includes an oversight review of at least two IUs discharging to the POTW.* DEQ will select the appropriate IUs for oversight reviews based on the *Guidance for Conducting a Pretreatment Compliance Inspection* (EPA 1991). IU oversight reviews are included as part of a pretreatment audit so the auditor can (1) verify that the IU permit/control mechanism correctly

reflects the physical and operational conditions of the facility; (2) validate whether the POTW has correctly evaluated compliance (including appropriate sampling methods); and (3) assess the POTW's IU inspection procedures.

When conducting audits of POTWs with approved pretreatment programs, DEQ will ensure that the POTW is following its enforcement response plan when the POTW identifies IU noncompliance.

#### **4.3.2 Pretreatment Compliance Inspections**

*As a pretreatment approval authority, DEQ will conduct at least two pretreatment compliance inspections of each POTW with an active approved pretreatment program every 5 years. These inspections are in addition to the audit that will be conducted every 5 years, as described under the metric in section 4.3.1.*

When inspecting POTWs with approved pretreatment programs, DEQ will ensure that the POTW is following its enforcement response plan when the POTW identifies IU noncompliance. Pretreatment compliance inspections will be conducted according to the *Guidance for Conducting a Pretreatment Compliance Inspection* (EPA 1991).

#### **4.3.3 Significant Industrial User Inspections**

For SIUs discharging to POTWs without approved pretreatment programs, DEQ will act as the control authority and track and review SIU semiannual reports submitted pursuant to 40 CFR 403.12(e) and (h).

General pretreatment regulations require approved POTWs and states that implement the POTW pretreatment program (40 CFR 403.10(e)) to “inspect and sample the effluent from each significant industrial user at least once a year” (40 CFR 403.8(f)(2)). *As required by the regulations for industrial pretreatment programs, 100% of SIUs permitted by approved POTWs or DEQ must be inspected and sampled annually.* The approved POTW or DEQ may conduct additional inspections as necessary, for example, when required semiannual self-monitoring reports from SIUs show noncompliance, or based on reconnaissance, or tips or complaints received by DEQ, EPA, or approved POTW.

Per IDAPA 58.01.25.003.02.x, the annual inspection and sampling requirement may be reduced to once every 2 years for SIUs designated with a reduced monitoring and inspection frequency according to provisions under 40 CFR 403.12(e)(3) and 40 CFR 403.8(f)(2)(v)(c). Given the regulatory requirement for annual sampling inspections of all SIUs, the state's alternative CMS cannot include an off-site desk audit in lieu of an annual SIU sampling inspection.

### **4.4 Sludge and Biosolids Metrics**

A sewage sludge/biosolids inspection assesses facilities engaged in a regulated sludge or biosolids activity and evaluates compliance with applicable regulatory provisions, including sludge monitoring, recordkeeping and reporting, treatment operations, sampling and laboratory quality assurance, and use or disposal practices. Sludge/biosolids inspections may be conducted

with compliance inspections at major and nonmajor POTWs. Inspections may also be conducted to respond to citizen tips or complaints.

*The recommended inspection frequency goal is at least one sludge/biosolids inspection of each major POTW every 5 years. Biosolids use and disposal operations, including incineration and surface application, should receive at least one sludge/biosolids inspection every 5 years.*

However, DEQ may substitute an off-site desk audit for sludge/biosolids generation, use, and disposal sites that meet the following criteria:

1. Are not currently subject to enforcement actions or compliance schedules that are the result of concluded enforcement actions.
2. Have not been reported in SNC within the previous four quarters.
3. Have no unresolved single-event violation identified in prior inspections.
4. Do not discharge to CWA §303(d)-listed waters for pollutants contributing to the listing.
5. Have no known potential to impact drinking water supplies.

A CMS that uses this approach for conducting off-site desk audits in lieu of sludge/biosolids inspections is still considered a *traditional CMS*.

## 4.5 Combined Sewer Systems Metrics

CSS inspections are conducted to comprehensively evaluate compliance with the CWA and combined sewer overflow (CSO) control policy (<http://www.epa.gov/npdes/pubs/owm0111.pdf>) requirements as written in the NPDES permit, an order, or another enforceable document. The inspector will verify whether the permittee is preventing CSOs during dry weather; implementing the nine minimum controls; adhering to a schedule for developing, submitting, and implementing a long-term CSO control plan; eliminating or relocating overflows to sensitive areas; adhering to effluent limitations; and implementing a post construction compliance monitoring program.

As of July 2016, no known CSO communities need to develop and implement a long-term CSO control plan. The national minimum inspection frequency goal for all major and nonmajor CSSs is conducting at least one comprehensive inspection every 5 years. If a CSS is identified, then CSO inspections will be conducted with compliance inspections at major and nonmajor POTWs. More frequent inspections, including CSO inspections, may be conducted to promptly evaluate known or suspected recurring sewer overflows. An inspector conducts a CSO inspection in response to information received about a known or suspected CSO event to evaluate compliance with CSO provisions present in the IPDES permit, an enforcement order, a consent decree, or another enforceable document. A CSO inspection will be scheduled based on information about sewer overflow occurrences received directly by DEQ or EPA, or from other governmental organizations, citizens groups, or nongovernmental organizations.

## 4.6 Sanitary Sewer Systems Metrics

Inspections of sanitary sewer collection systems comprehensively evaluate compliance with IPDES permit terms and conditions for system design, operation, and maintenance; permit reporting requirements; an enforcement order; or another enforceable document. The inspector collects information to verify that the permittee is complying with the IPDES permit conditions

(duty to mitigate and proper operation and maintenance) and the required notification procedures. The inspector also determines whether there have been any unpermitted discharges, or discharges from a location other than the discharge point specified in the permit, to waters of the United States. When preparing to inspect an SSS, the inspector may consult OECA's *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems* (EPA 2005) and may consult with the regional office engineering manager for the latest approved plans and specifications of the sanitary sewer collection system.

*The minimum inspection coverage goal for SSSs is to conduct comprehensive inspections of at least 5% of SSSs each year.* Facilities subject to this coverage goal is the number of POTW permits in the state that include one or more sanitary sewer collection systems. Where a permit covers satellite collection systems, to allow the inspector to evaluate overall collection system compliance, the SSS inspection will review satellite systems that together comprise a substantial percentage of the total flow to the treatment plant. Inspection priority will be given to SSSs with chronic sewer overflows and/or pump station backups.

More frequent inspections, including SSO inspections, may be necessary for some systems to promptly evaluate known or suspected recurring sewer overflows. An inspector conducts an SSO inspection in response to information received about a known or suspected sewer overflow event. In many cases, SSO inspections will be scheduled based on information about sewer overflow occurrences received directly by DEQ or EPA, or from other governmental organizations, citizens groups, or nongovernmental organizations. SSO inspections, as well as broader inspections of SSSs and their satellites, may be conducted with compliance inspections at major and nonmajor POTWs.

## **4.7 Storm Water Metrics**

### **4.7.1 Municipal Separate Storm Sewer Systems**

A strong need exists for DEQ to assess the quality of MS4 stormwater management programs. On-site MS4 audits (evaluating all aspects of the MS4 stormwater management program), on-site inspections, and off-site desk audits are valuable tools for evaluating whether the MS4s comply with permit requirements. All MS4 compliance monitoring programs will include a review of the storm water management plan elements to provide a representative picture of overall MS4 performance.

*DEQ's minimum compliance monitoring goal for MS4s is to determine compliance of each MS4 permittee and co-permittee at least once every 5 years by conducting one or more of the following compliance monitoring activities: on-site audit, MS4 inspection, or off-site desk audit.* Off-site desk audits should not be conducted for any MS4 permittee that has not previously been subject to an on-site inspection or audit that has documented a compliance baseline for the MS4. *As part of this goal, each MS4 permittee and co-permittee should receive an on-site audit or inspection at least once every 7 years.* DEQ has the flexibility to extend the 7-year goal for on-site inspections/audits to every 10 years for a co-permittee that contributes a minimal volume of the total flow to the MS4. More frequent on-site audits, inspections, or off-site desk audits may be necessary for certain MS4s based on noncompliance (including noncompliance at underlying

construction sites and industrial storm water facilities), failure to implement a storm water management plan, citizen tips or complaints, referrals from other governmental organizations, and follow-up on activities mandated by an enforcement order.

This goal provides DEQ with the flexibility to determine the most appropriate approach to assess compliance within MS4s without developing an alternative CMS pursuant to section 7 of this policy. Priority should be given to auditing or inspecting MS4s located in priority watersheds that contribute to CWA §303(d) listings and those located near waters that the state has designated for higher levels of protection. Furthermore, the scope of any inspection will be determined based on the highest priority minimum measures for that MS4, as determined by a review of the MS4's compliance history, water quality concerns, permit revisions, noncompliance at construction sites and industrial facilities within its jurisdiction, and other local factors.

Monitoring activities on the construction oversight programs of MS4s should be closely coordinated with monitoring activities at individual construction sites (section 4.7.3). Likewise, monitoring activities on industrial oversight elements of Phase I MS4s, and where they exist as part of Phase II MS4s (e.g., illicit discharge detection and elimination programs), should be closely coordinated with monitoring activities at individual industrial storm water dischargers (section 4.7.2).

Idaho currently has one Phase I MS4 permit. EPA cautions that many Phase I MS4s may technically qualify as *major permittees* per the IPDES Permit Rating Sheet. The inspection frequency goal for major permittees under the metric in section 4.1 does not apply to Phase I MS4s.

#### **4.7.2 Industrial Stormwater**

Industrial stormwater inspections ensure that regulated facilities have an IPDES permit for stormwater discharge and a stormwater pollution prevention plan (SWPPP). These inspections also ensure the facility complies with the permit and is implementing the SWPPP so that technology and water quality based requirements are met. During the inspection, the inspector reviews the permit and SWPPP; reviews self-inspection reports and other records to verify that the facility is complying with its permit and is implementing the SWPPP; and walks the site to verify that the SWPPP is accurate and best management practices (BMPs) are in place and functioning properly.

*The inspection goal for industrial storm water permittees is to inspect at least 10% of the facilities each year.* DEQ will also conduct compliance monitoring activities to locate industrial facilities that have failed to obtain permit coverage or file a *no exposure certification* under 40 CFR 122.26(g). Inspections of unpermitted industrial storm water facilities, including those with no exposure certification, will count toward the annual industrial storm water coverage goal of 10%.

Priority will be given to inspecting permittees of environmental concern and those located in priority watersheds that may discharge a pollutant that contributes to CWA §303(d) listings, and permittees located near high quality waters that the state has designated for higher levels of protection to prevent degradation.

To conserve resources, DEQ will consider conducting a facility's industrial stormwater inspection with the IPDES compliance inspection for permitted major and nonmajor industrial facilities. Consideration will also be given to coordinating industrial storm water inspections with oversight of MS4 industrial storm water programs in the Phase I MS4 community and where such elements exist as part of Phase II MS4s.

### **4.7.3 Construction Storm Water Sites**

Storm water inspections ensure that regulated facilities have an IPDES permit for stormwater discharge, a SWPPP, and are following the specifications in each. During the inspection, the inspector reviews the permit and SWPPP and determines whether the SWPPP meets the requirements set forth in the permit. The inspector also reviews records, such as self-inspection reports, to verify that the facility is complying with its permit and SWPPP and walks the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly.

This compliance monitoring metric applies to construction storm water sites of equal to or greater than 1 acre of disturbed area (i.e., all regulated Phase I and Phase II construction sites). *The minimum recommended inspection frequency for this metric is to inspect at least 10% of the regulated construction sites annually.* To determine the applicable sites at the inspection planning stage, the 10% goal will be applied to the estimated number of active regulated construction sites in the state in the coming year. As part of this goal, DEQ will follow up on tips and complaints about potentially unpermitted construction sites. Inspections of unpermitted construction sites and sites with a low erosivity waiver will count toward the annual construction storm water coverage goal of 10%.

Priority will be given to sites located near CWA §303(d)-listed waters that are impaired for construction-associated pollutants (e.g., sediment), and at larger, long-term sites located near high quality waters that the state has designated for higher levels of protection to prevent degradation.

For estimating joint EPA and state progress relative to the joint annual goal, DEQ will include in the API annual report the total number of IPDES construction storm water inspections that have been conducted by the state during that reporting year.

## **4.8 Concentrated Animal Feeding Operations**

CAFO inspections are conducted to verify that CAFOs are not illegally discharging to waters of the United States and that permitted CAFOs are complying with their IPDES permits. DEQ and the Idaho State Department of Agriculture (ISDA) will work together when evaluating CAFOs and permit- or complaint-based inspections will be conducted by ISDA. As the primary agency working with CAFOs throughout the state, ISDA routinely conducts inspections every year of all CAFOs to ensure compliance with state law. DEQ will use ISDA's experience and history of working with the agricultural industry when evaluating the potential for a CAFO to discharge to waters of the United States.

#### 4.8.1 Large and Medium CAFOs with IPDES Permits

*EPA recommends that the state conduct a comprehensive inspection of IPDES-permitted CAFOs at least once every 5 years to evaluate compliance with the permit, including terms of the nutrient management plan, reporting and recordkeeping.* Currently, Idaho does not have any IPDES-permitted CAFO facilities. If CAFO facilities become permitted and receive complaints or experience problems with wastewater, then more frequent inspections may be appropriate for CAFOs that meet the following conditions:

- Exceptionally large livestock and poultry operation.
- History of noncompliance.
- Significant site-specific environmental concerns, including operations located on an impaired water body and subject to total maximum daily load (TMDL) wasteload allocations.
- Permit includes a voluntary alternative performance standard pursuant to the CAFO Effluent Limitations Guideline in 40 CFR 412.
- State requirements apply to specific areas of the operation (e.g., ISDA sanitary inspections of dairy farms).

#### 4.8.2 Large CAFOs without IPDES Permits

*All large CAFOs not covered by an IPDES permit will be inspected annually by ISDA.* In addition to the areas that ISDA inspects, this inspection will evaluate the potential for a facility to discharge to waters of the United States, and ISDA will share this information with DEQ. The ISDA inspector will document the following:

1. Pollutants are discharged to a water of the United States through a manmade ditch, flushing system, or other similar manmade device, or
2. Pollutants are discharged directly into water of the United States that passes over, across, or through the facility, or otherwise comes into direct contact with the animals confined in the operation.

Inspections of unpermitted CAFOs will evaluate practices associated with the land application of manure, litter, and process wastewater to determine if all land application discharges may be classified as exempt agricultural storm water. DEQ will meet regularly with ISDA inspectors or their representative to determine which facilities have cause for concern regarding compliance with the CAFO general permit.

#### 4.8.3 Medium Animal Feeding Operations without IPDES Permits

*Working with ISDA, DEQ will initially assess all medium-sized animal feeding operations (AFOs) to determine whether the facility is a medium CAFO and whether the facility discharges to waters of the United States.* Assessments will evaluate whether the facility meets the definition of a medium CAFO due to the number of animals confined and one of the two criteria:

1. Pollutants are discharged to a water of the United States through a manmade ditch, flushing system, or other similar manmade device.
2. Pollutants are discharged directly into water of the United States that passes over, across, or through the facility or otherwise comes into direct contact with the animals confined in the operation.

Priority for on-site assessments will be based on priority watersheds, nutrient impairments, complaints, or other information. The state may make a determination about certain facilities, such as those that are not near a water of the United States, by discussing the facility with the ISDA inspector. An assessment of a medium AFO will likely involve a discussion with the ISDA inspector and a review of maps, aerial images, and any agency or public records about the operation.

After the initial assessment, if the facility is not a medium CAFO, the state will coordinate with ISDA on follow up on-site inspections as needed based on available information, such as citizen tips or complaints, and designate the AFO as a CAFO if the facility is a significant contributor of pollutants to a water of the United States. If the facility is a medium CAFO with a discharge to waters of the United States, then an IPDES permit is required, and the inspector will coordinate with the IPDES permit writer and inspect the CAFO according to section 4.8.1 of this policy.

#### **4.8.4 Small Animal Feeding Operations**

*DEQ will coordinate with ISDA and may conduct an on-site inspection of small AFOs as needed based on a citizen tip or complaint or other information to determine whether the AFO should be designated as a CAFO.* In Idaho, CAFO designations regulated under the IPDES program may be made by the DEQ director. DEQ intends to make CAFO determinations in consultation with ISDA. The EPA Region 10 administrator (regional administrator) may also designate CAFOs in authorized states but only when the regional administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent state, or to Indian reservation water that is impaired for that pollutant.

DEQ may designate an AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the United States. DEQ will consider the following factors in making a designation:

1. Size of the AFO and amount of waste reaching waters of the United States.
2. Location of the AFO relative to waters of the United States.
3. Means of conveying animal wastes and process wastewaters into waters of the United States.
4. Slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal waste manure and process wastewaters into waters of the United States.

No designation by either DEQ's director or EPA regional administrator may be made unless pollutants are discharged into a water of the United States due to either (1) a manmade ditch, flushing system, or other similar manmade device, or (2) a water of the United States that passes over, across or through the facility, or otherwise comes into direct contact with animals confined at the operation.<sup>1</sup>

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<sup>1</sup> 40 CFR 122.23(c)(3)

## 4.9 IPDES Sources with Complaint-Driven Frequency Goals

### 4.9.1 Pesticides

As a result of a US Sixth Circuit Court of Appeals decision in *National Cotton Council, et al. v. EPA*, as of October 31, 2011, point source discharges of biological pesticides and chemical pesticides that leave a residue, into waters of the United States are required to comply with NPDES requirements. The EPA finalized a rule on June 21, 2013, to remove the exemption for pesticide discharges from the NPDES regulations. EPA and the states currently regulate pesticide discharges to waters of the United States primarily through the Federal Insecticide, Fungicide, and Rodenticide Act and NPDES general permits.

*There is no set national compliance monitoring frequency goal for pesticide operators subject to the IPDES program.* DEQ will conduct compliance monitoring activities in response to tips and complaints and other available information relevant to compliance.

### 4.9.2 Vessels

EPA currently regulates discharges incidental to the normal operation of commercial vessels greater than 79 feet in length and operating as a means of transportation primarily through the Vessel General Permit (VGP). The first VGP was issued in 2008 and was effective until December 19, 2013. On March 28, 2013, EPA reissued the VGP for another 5 years. A brief overview of the 2013 VGP is available at [http://www.epa.gov/npdes/pubs/vgp\\_overview2013.pdf](http://www.epa.gov/npdes/pubs/vgp_overview2013.pdf).

Recreational vessels as defined in CWA §502(25) are not subject to the 2013 VGP. Likewise, except for ballast water discharges, NPDES permits are not required for any discharges incidental to normal operation of commercial fishing vessels and other nonrecreational vessels less than 79 feet. However, Congress extended the moratorium from the requirement to obtain permit coverage for incidental discharges from these vessels, which expires December 18, 2017. Anticipating the end of the moratorium, EPA published a draft small VSP in 2013 to provide for permit coverage for these incidental discharges and finalized the permit during 2014 (<https://www.epa.gov/npdes/vessels-incident-discharge-permitting-4>).

*There is no set compliance monitoring frequency goal for vessels subject to the NPDES program.* DEQ will conduct compliance monitoring activities in response to tips and complaints and other available information relevant to compliance.

## 5 Other IPDES Sources

EPA's national policy regarding compliance monitoring does not specifically address concentrated aquatic animal production, drinking water treatment facilities, small suction dredge activities, or ground water remediation. Instead it classifies these various sectors as either major or nonmajor permitted activities. In the interest of providing clarity regarding the monitoring frequency goals for DEQ, this section of the IPDES CMS addresses these specific sectors with frequency goals consistent with the national policy.

## 5.1 Concentrated Aquatic Animal Production (Majors, Nonmajors, Processors)

DEQ will conduct compliance monitoring activities in response to tips and complaints and other available information relevant to compliance. *DEQ's goal is to conduct a comprehensive inspection of those facilities classified as majors once every 2 years and all other regulated entities once every 5 years.*

## 5.2 Drinking Water Treatment Facilities, Small Suction Dredge, and Ground Water Remediation

DEQ will conduct compliance monitoring activities in response to tips and complaints and other available information relevant to compliance. *DEQ's goal is to inspect at least 5% of this group of regulated entities annually.*

# 6 Compliance Monitoring Activity Descriptions

Detailed descriptions of each monitoring activity performed by IPDES compliance personnel are provided in this section. Compliance personnel will choose the type of compliance monitoring activity to conduct based on the compliance status and history of the facility, the information needed from the facility, the type of facility involved, and data about the quality of receiving waters. The type of inspection selected will determine the activities conducted on site, and the additional information the inspector will gather or verify during the inspection.

Where feasible, compliance personnel will perform background and record reviews before going on site to streamline on-site activities and use resources more efficiently. Some types of IPDES inspections may encompass several elements from multiple inspection types (e.g., a stormwater inspection may encompass elements from both a compliance sampling inspection and a performance audit inspection). DEQ will use the results of these activities to develop subsequent permits, provide compliance assistance, and where appropriate, provide evidence for enforcement proceedings.

Quality assurance and quality control (QA/QC) policies for all inspections that include sampling will be in place to ensure that DEQ's field tests and collection and transport of samples to an analytical laboratory are conducted according to DEQ's *Quality Management Plan* (DEQ 2012) and site-specific quality assurance project plans (QAPPs). Compliance with QAPP requirements will be coordinated through DEQ's QA officer. Sample integrity will be protected by properly using of chain-of-custody procedures.

## 6.1 IPDES Compliance Monitoring Goals Summary

Table 1 provides a summary of IPDES compliance monitoring goals and serves as a reference tool for developing an API. All of the information in the table corresponds to the goals and flexibilities outlined in sections 3 and 4 of this CMS. For an alternative CMS, Table 1 is the starting point and can be tailored for any metrics of an alternative plan where the compliance monitoring commitments deviate from the national CMS goals.

**Table 1. Inspection frequency by permitted sector.**

IPDES Permit Type	Comprehensive Inspection Frequency by Year or Percentage	Number of Facilities in Idaho	Total Facilities to be Inspected in a Given Year
Major	1 inspection every 2 years	28 POTW/8 industrial	18
Nonmajor	At least 1 inspection every 5 years and 5% per year	92 POTW/32 industrial	25
Pretreatment	2 inspections every 5 years	12	3
Sewage sludge/biosolids	1 inspection every 5 years for permitted facility	118	24
CSS/SSS	5% of permittees inspected when treatment works is inspected	Approximately 145	8
MS4	1 inspection every 5 years for compliance monitoring activity	19	4
Industrial storm water	10% per year	Approximately 275 <sup>a</sup>	Approximately 28
No exposure	10% per year	Approximately 213	Approximately 21
Construction storm water	10% per year	Approximately 1,209 <sup>b</sup>	Approximately 121
Low erosivity waiver	10% per year	Approximately 26	Approximately 3
Large/medium CAFO	1 inspection every 5 years for permitted facility	0	—
Medium/small CAFO	As needed based on a citizen tip or complaint	0	—
Pesticide	Complaint driven	130	Unknown
Vessel	Complaint driven	6 (varies annually)	Unknown
CAAP	1 inspection every 2 years for major (including processors)	74 nonmajor	15 nonmajor
	1 inspection every 5 years for nonmajor	18 major	9 major
DWGP	5% of permittees	7	2
Small suction dredge	5% of permittees	162	8
Ground water remediation	5% of permittees	6	1
<b>Total Annual Inspections</b>			Approximately 298

a. Estimates are based on conversations between T. Smith of DEQ and K. Burgess of EPA, February 2016

b. Estimate was extrapolated from information provided by EPA, February 2016 for calendar year 2015 active construction storm water permitted activities.

Notes: publicly owned treatment work (POTW); combined sewer system (CSS); sanitary sewer system (SSS); Municipal Stormwater General Permit (MSGP); municipal separate sewer systems (MS4s); Construction General Permit (CGP); concentrated animal feeding operation (CAFO); concentrated aquatic animal production (CAAP); Drinking Water General Permit (DWGP)

## 6.2 Comprehensive Inspection Types

**Compliance Biomonitoring Inspection**—The on-site inspection of an IPDES direct discharger includes the same objectives and tasks as a compliance sampling inspection. A compliance biomonitoring inspection reviews a permittee's toxicity bioassay techniques and records maintenance to evaluate compliance with the biomonitoring terms of the IPDES permit and to

determine whether the permittee's effluent is toxic. During this inspection, the inspector collects effluent samples to conduct acute and chronic toxicity testing that evaluates the biological effect of a permittee's effluent discharges on test organisms. The state will have the ability to conduct biomonitoring inspections or have an equivalent program in place to independently verify a discharger's compliance with whole effluent toxicity permit requirements.

**Compliance Evaluation Inspection**—The compliance evaluation inspection is an on-site nonsampling inspection of an IPDES direct discharger that verifies permittee compliance with applicable permit self-monitoring requirements, effluent limits, and compliance schedules. Before initiating the on-site inspection, the inspector will review past and ongoing noncompliance from the permittee's reporting or from a previous inspection. Inspectors will interview the operator, review records, make visual observations, and evaluate treatment facilities (including operations, processes, and equipment), laboratories, effluents (content and appearance), outfall location, and upstream/downstream receiving waters. Inspectors will identify potential single-event violations and document findings on standard forms with supporting photographic and video records. During this inspection, the inspector will examine both chemical and biological self-monitoring, which forms the basis for all other inspection types except the reconnaissance inspection.

**Compliance Sampling Inspection**—The compliance sampling inspection of an IPDES direct discharger includes the same objectives and tasks as a compliance evaluation inspection. In addition, inspectors must collect representative wastewater effluent samples or ambient water or sediment samples that might also include collecting *split samples* with the operator to compare sample results and document a permittee's laboratory techniques. Inspectors then review the permittee's sampling and laboratory procedures; verify the accuracy of reports through chemical and bacteriological analysis and the permittee's self-monitoring program, including operator certifications; evaluate compliance with discharge limitations; determine the quantity and quality of effluents; and provide evidence for enforcement proceedings where appropriate.

**Concentrated Animal Feeding Operation Inspection**—The objective of this inspection is to evaluate a CAFO's compliance with permit requirements, permit conditions, applicable regulations, and other requirements. To evaluate compliance with IPDES program requirements and regulations, an ISDA inspector conducting a CAFO inspection will review facility documents and records, such as the facility's permit, nutrient management plan, animal inventory, and all associated records. The on-site inspection also includes assessing the facility's structural integrity, maintenance condition, and storage availability. For CAFOs that land-apply manure, litter, or process wastewater, the CAFO inspection will include review of in-field and edge-of-field conservation practices, land application protocols, and all other factors relevant to determining whether the CAFO has nonagricultural stormwater discharges from land application areas. Where appropriate, CAFO inspections may include sampling of manure, litter, wastewater and/or soil. A CAFO inspection may also require collecting information necessary to establish whether the receiving water of any CAFO discharge is a water of the United States.

**Municipal Separate Storm Sewer System Audit**—An MS4 audit evaluates overall MS4 stormwater management program implementation and identifies problems the local government may have in implementing the program. MS4 audits involve an on-site visit and comprehensive review of the local government's MS4 storm water management program elements including, where applicable:

1. Structural and source control measures
2. Detection and removal of illicit discharges and improper disposal into storm sewers
3. monitoring and controlling pollutants in storm water discharges
4. Implementing and maintaining structural and nonstructural BMPs
5. Implementation schedules and assignment of appropriate individuals
6. Inspection and enforcement program for covered industrial facilities and construction sites
7. Dry weather screening program

The auditor will determine whether controls are in place and in good working order, and whether facilities have schedules for constructing structural control measures. When preparing for an MS4 audit or inspection, the evaluator will consider the *MS4 Program Evaluation Guidance* (EPA 2007).

**Municipal Separate Storm Sewer System (MS4) Inspection**—An MS4 inspection is an on-site inspection that involves reviewing some, but not all, elements of the MS4 storm water management program to evaluate whether the MS4 is implementing an adequate program in the selected program elements. The program elements will be selected by DEQ after reviewing the MS4 permit and other relevant information. See the MS4 audit definition for program elements.

**Performance Audit Inspection**—The inspector conducts an on-site performance audit inspection of an IPDES direct discharger to evaluate the permittee's self-monitoring program. As with a compliance evaluation inspection, the performance audit inspection verifies the permittee's reported data and compliance through a records check. The performance audit inspection provides a more resource-intensive review of the permittee's self-monitoring program including the QAPP. This inspection evaluates the permittee's procedures for sample collection, flow measurement, chain-of-custody procedures, laboratory analyses, data compilation, reporting, and other areas related to the self-monitoring program.

In a compliance evaluation inspection, the inspector makes a cursory visual observation of the treatment facility, laboratory, effluents, and receiving waters. In a performance audit inspection, the inspector observes the permittee performing the self-monitoring process from sample collection and flow measurement through laboratory analyses, data workup, and reporting. The performance audit inspection does not include sample collection by the inspector; however, the inspector may require the permittee to analyze performance samples for laboratory evaluation purposes.

**Pretreatment Audit**—A pretreatment audit involves an on-site visit and a comprehensive evaluation of all aspects of the local POTW control authority's program. The primary goals of the audit are to assess the local program's compliance with the regulatory requirements under the IPDES direct discharge permit, note areas of the control authority's program that need to be modified to bring the program into compliance with the regulations, and to identify circumstances that might warrant enforcement actions against the control authority. In the course of conducting a pretreatment audit, DEQ will ensure that the POTW is following its enforcement response plan when the POTW identifies IU noncompliance. Ultimately, the pretreatment audit will help DEQ identify areas for improvement and make recommendations to increase the effectiveness of the control authority's program. A pretreatment audit includes oversight reviews of at least two IUs that discharge to the POTW and may include sampling.

The pretreatment audit is further defined and discussed in the *Control Authority Pretreatment Audit Checklist and Instructions* (EPA 2010), which includes sections for evaluating environmental indicators and investigating the control authority's use of pollution prevention techniques, annual inspections, and sampling events of all significant IUs subject to pretreatment regulatory requirements. Audits evaluate all aspects of a program while inspections concern one element or site of the program. Problems found in an audit or inspection will trigger more frequent audits in the future.

**Pretreatment Compliance Inspection**—The on-site pretreatment compliance inspection is a tool for DEQ to determine the control authority's compliance with and enforcement of its approved pretreatment program during the years between audits. This inspection evaluates the POTW's implementation of its approved pretreatment program. It includes a review of the POTW's records on monitoring, inspections, and enforcement activities for its IUs. In the course of conducting this inspection, DEQ will ensure that the POTW is following its enforcement response plan when the POTW identifies IU noncompliance. This inspection will include an appropriate number of IU evaluations or site visits to evaluate the control authority oversight procedures and to assess accurate application of categorical pretreatment standards. The inspection may include IU sampling, depending on the reason for the inspection. For example, samples may be collected and analyzed to verify the IU's self-monitoring program. Inspectors may prefer to conduct this inspection concurrently with an NPDES inspection of the POTW. When preparing for a pretreatment compliance inspection, the inspector will consider EPA's *Pretreatment Compliance Inspection and Audit Manual for Approval Authorities* (EPA 1986), *Guidance for Conducting a Pretreatment Compliance Inspection* (EPA 1991), and *Control Authority Pretreatment Checklist and Instructions* (EPA 1992).

**Sanitary Sewer Overflow Inspection**—The inspector conducts an on-site inspection in response to information received regarding a known or suspected SSO event. An SSO inspection evaluates compliance with IPDES permit terms and conditions for system design; operation and maintenance; permit reporting requirements; an enforcement order; a consent decree; or another enforceable document. The inspector collects information to verify that the permittee is complying with the IPDES standard permit conditions (duty to mitigate and proper operation and maintenance) and the required notification procedures. The inspector also determines whether there have been any additional unpermitted discharges, or discharges from a location other than the discharge point specified in the permit, to waters of the United States. When preparing for an SSO inspection, the inspector will consider OECA's *Guide for Evaluating Capacity, Management, Operation, and Maintenance (CMOM) Programs at Sanitary Sewer Collection Systems* (EPA 2005) and coordinate with the regional office engineering manager.

**Significant Industrial User Inspection**—For purposes of this CMS, the SIU inspection of an indirect discharger is performed when DEQ is acting as the pretreatment control authority pursuant to 40 CFR 403.10, or where the state is otherwise performing oversight. The SIU inspection is an on-site activity that closely reviews the indirect discharge permit and the SIU's compliance, recordkeeping, and reporting since the last inspection. The pretreatment regulations provide that state and local control authorities must conduct sampling inspections of all SIUs at least annually to evaluate compliance with applicable pretreatment standards independent of the IU's self-monitoring reports.

**Storm Water Inspection**—Storm water inspections at industrial facilities and construction sites are designed to evaluate compliance with IPDES permits for storm water discharge. A storm water inspection may also evaluate whether an industrial facility or construction site has obtained IPDES permit coverage if required or qualifies for a no exposure exemption or low erosivity waiver, respectively. SWPPP documents how the facility intends to comply with the terms and conditions of the permit, including effluent limitations. During the on-site inspection, the inspector reviews the permit and measures described in the SWPPP to evaluate whether the facility is following its plan for complying with the permit. The inspector also reviews records, such as self-inspection reports, to verify that the facility is complying with its permit and following the SWPPP, and walks the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly. When preparing for a stormwater inspection, the inspector will consider the *Storm Water Compliance and Enforcement Strategy* (EPA 2003) and comply with EPA’s most current national program guidance.

**Technical Assistance Inspection**—This inspection is similar to EPA’s diagnostic inspection. It is an on-site activity that primarily focuses on POTWs that have not achieved permit compliance. POTWs having difficulty diagnosing their problems are targeted. The technical assistance inspection is used to identify the causes of noncompliance, suggest immediate remedies to the POTW that will achieve compliance, and support current or future enforcement action. This inspection is typically conducted after noncompliance events have been formally documented and cited by DEQ. Once the cause of noncompliance is defined, an administrative order is usually issued that requires the permittee to conduct a detailed analysis and develop a composite correction plan.

**Toxics Sampling Inspection**—This on-site inspection of an IPDES direct discharger has the same objectives as a conventional compliance sampling inspection; however, increased emphasis is placed on toxic substances regulated by the IPDES permit. The toxic sampling inspection covers priority pollutants other than heavy metals, phenols, and cyanide, which are typically included in a compliance sampling inspection (if regulated by the IPDES permit). This type of inspection uses more resources than a compliance sampling inspection because sophisticated techniques are required to sample and analyze toxic pollutants. A toxic sampling inspection may also evaluate raw materials, process operations, and treatment facilities to identify toxic substances requiring controls.

### 6.3 Noncomprehensive Inspection Types

**Combined Sewer Overflow Inspection**—During a CSO inspection, the inspector conducts an on-site inspection in response to information received about a known or suspected overflow event. A CSO inspection evaluates compliance with CWA and CSO requirements as written in the IPDES permit, an enforcement order, or another enforceable document. The inspector will verify whether the permittee is preventing CSOs during dry weather; implementing the nine minimum controls; adhering to a schedule for developing, submitting, and implementing a long-term CSO control plan; eliminating or relocating overflows to sensitive areas; adhering to effluent limitations; and implementing a post construction compliance monitoring program.

**Focused Compliance Inspection**—A focused compliance inspection is more detailed than a reconnaissance inspection but is not as comprehensive as compliance evaluation, compliance

sampling, diagnostic, or pretreatment compliance inspections. This focused compliance inspection evaluates compliance for one or more specific portions of a facility (e.g., specific operation or process stream), permit, or program (e.g., a pretreatment control authority's oversight of IUs).

A fact-driven analysis will determine whether a comprehensive inspection<sup>1</sup> or a focused compliance inspection is appropriate for the particular facility. Some industries that typically require full process-based inspections may not qualify for a focused compliance inspection. The scope of a focused compliance inspection should be based on the facility's compliance history, recent changes in the facility's operation, and other data that indicate a portion of the program or facility is more likely to have noncompliance issues. While the scope is narrower, the level of detail should be comparable to the level of detail required of that portion of a comprehensive inspection.

For a focused compliance inspection (referred to in the national CMS policy as a focused inspection) to count toward implementation of an approved alternative CMS, all applicable conditions outlined in section 7 must be met.

**Follow-up Inspection**—The follow-up inspection is a resource intensive site inspection conducted when a compliance problem is identified as a result of a routine inspection or complaint. For this inspection, the appropriate resources are assembled to deal effectively with a specific enforcement problem.

**Off-Site Desk Audit**—This audit is a comprehensive off-site compliance evaluation of information, data, records, and facility reports used to make a facility- or program-level (for pretreatment and MS4s) compliance determination. Routine off-site compliance monitoring activities, such as reviewing self-monitoring reports or records of phone calls with the facility, are not enough to be considered an off-site desk audit. An audit may include review of agency-gathered testing; sampling and ambient monitoring data; responses to CWA §308 requests; compliance deliverables submitted pursuant to permits or enforcement orders; remote sensing; aerial or satellite images; DMRs; annual reports; conversations with facilities; and tips and complaints. For an off-site desk audit to count toward implementation of an approved alternative CMS, all applicable conditions outlined in section 7 must be met.

For an off-site desk audit, DEQ may use videoconferencing with facility personnel to gather additional information as they conduct their evaluation. This audit will be performed by an authorized inspector (consistent with state authority) or other credible regulator (i.e., an individual designated by EPA or DEQ with sufficient knowledge, training, or experience to assess compliance). DEQ will select the candidate for the off-site desk audit based on personal knowledge of the facility, information from DMRs, other reports, and prior on-site inspections, and with this facility information will make a compliance determination.

**Reconnaissance Inspection**—A reconnaissance inspection, which only requires a preliminary overview of a permittee's compliance program and brief inspection of the facility, does not qualify as a focused compliance inspection. It is an on-site inspection that can be conducted with or without sampling. The inspector performs a brief visual inspection of the permittee's treatment facility, effluents, and receiving waters. The reconnaissance inspection uses the inspector's experience and judgment to quickly summarize any potential compliance problems. One

objective of this inspection is to expand inspection coverage without increasing inspection resources; it may also be used to verify that a facility is no longer discharging to waters of the United States and does not require an IPDES permit. The reconnaissance inspection is the briefest and least resource intensive of all CWA inspections.

**Sewage Sludge/Biosolids Inspection**—This inspection assesses facilities engaged in regulated sludge or biosolids activities (40 CFR 503) and evaluates compliance with applicable regulatory provisions, including sludge monitoring; recordkeeping and reporting; treatment operations; sampling and laboratory quality assurance; and use or disposal practices (e.g., land application). Sewage sludge/biosolids inspections are on-site activities that may be conducted with compliance inspections at major and nonmajor POTWs. The pretreatment compliance, compliance evaluation, and performance audit inspections are the most likely vehicles for evaluating compliance with sludge/biosolids requirements.

## 7 Alternative CMS Development

As stated in section 3.1, DEQ may deviate from the national goals by incorporating flexibilities set forth in Part 2 of the 2014 NPDES CMS. An alternative CMS may include modified frequency of comprehensive inspections, modified compliance monitoring activities (e.g., off-site desk audit), or a combination of the two. It will include adequate detail for EPA and the regulated community to understand (1) the overall approach proposed, including the rationale for any deviations and adjustments; (2) a description of the affected regulated entities; and (3) an explanation of how DEQ determined that the resulting reduced/modified attention for certain entities will not have negative public health or environmental impacts.

Any monitoring commitments incorporated into an alternate CMS that includes focused inspections and/or off-site desk audits will meet the following minimum conditions:

1. The compliance monitoring activity will be conducted to make a compliance determination. When conducting a focused inspection pursuant to the provisions of this policy, DEQ may make a compliance determination at the process level (e.g., belt press and sludge handling procedures of a treatment works) relative to the scope of the focused inspection.
2. The activity will be conducted by appropriate personnel, as specified in the definitions of each alternative activity (section 6).
3. The supporting API will document DEQ's evaluation of the five facility-specific questions below.
4. The compliance monitoring activity will be reported to ICIS-NPDES through EPA's central data exchange to ensure transparency, accountability, and appropriate follow-up. Reporting includes entry of facility-specific information, compliance actions, and results of the activity (e.g., any noted violations and SNC).

In addition, annual inspection plans developed under an alternative CMS may include the expectations of the alternative CMS if not specifically addressed in the alternative CMS. For example, the plan may list those facilities subject to each CMS metric and the associated

number/type of compliance monitoring activities. When developing an API consistent with an alternative CMS, DEQ will consider the following facility-specific questions before proposing a focused compliance inspection and/or off-site desk audit:

1. Is the facility currently subject to an enforcement action or a compliance schedule resulting from an enforcement action?
2. Has the facility been reported in SNC within the previous four quarters?
3. Does the facility have any unresolved single-event violations identified in prior inspections?
4. Does the facility discharge listed pollutants to impaired waters?
5. Does the facility have any known potential to impact drinking water supplies?

If the answer to any of the above questions is “yes,” DEQ will further scrutinize whether a focused inspection or off-site desk audit of the facility is adequate to assess compliance and protect water quality. For each year that an API includes focused inspections and/or off-site desk audits, DEQ staff will reevaluate these questions on a facility-specific basis to address changing circumstances (e.g., impaired waters listings and compliance status). For any facility that is a viable candidate for a focused inspection or off-site desk audit, the API will consider the amount of time since the last comprehensive inspection to ensure that all facilities are subject to periodic comprehensive inspections.<sup>2</sup>

## Alternative CMS Review

DEQ will consult EPA and submit for review any alternative CMS as early in the planning process as possible. DEQ will contact the appropriate EPA staff to discuss an appropriate review schedule. The goal is to work efficiently and effectively so an API is in place at or near the beginning of the year covered by each plan (e.g., the first day of the calendar year, January 1). Approving and documenting the IPDES alternative CMS and subsequent APIs may be included in existing timetables and processes EPA uses in the §106 grant process, grant work plans, performance partnership agreements, or through the state review framework process.

The following are alternative CMS scenarios that DEQ may consider when implementing this policy:

- A. For major facilities that have been evaluated under the five alternative API considerations described above, DEQ may propose the following alternative approach: every 5 years conduct at least one comprehensive on-site inspection, one focused compliance inspection, and one off-site desk audit (i.e., two on-site inspections in 5 years).

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<sup>2</sup> Throughout this document, when used without qualification, *comprehensive inspection* includes any of the following types of inspections: compliance evaluation, compliance sampling, concentrated animal feeding operation, performance audit, compliance biomonitoring, MS4 audit or inspection, sanitary sewer overflow, significant industrial user, stormwater, technical assistance, toxics sampling, and pretreatment program audit or inspection.

- B. DEQ may propose inspections of nonmajor facilities on a watershed basis or by a particular pollutant. The watershed approach would allow DEQ to focus resources on areas of the state where beneficial use impairment is directly correlated with the pollutants being discharged. Inspections based on a particular pollutant may be a useful approach where the state has identified a particular pollutant causing impairment to waters of the United States within Idaho.
- C. DEQ may encounter a situation where MS4s are not performing well in their role of overseeing active construction sites and industrial stormwater dischargers. In exchange for reduced comprehensive inspection coverage in industrial and construction stormwater sectors, DEQ may increase the number of comprehensive inspections for MS4s to ensure that the MS4s are conducting critical local oversight of construction and industrial stormwater discharges. For example, DEQ may commit to conducting inspections at 5% of industrial stormwater facilities and off-site desk audits at an additional 5% of the facilities. In this scenario, the compliance improvement benefit would presumably accrue through higher compliance in the future at the facilities under the MS4's jurisdiction, versus increased compliance at just a few individually inspected facilities.
- D. DEQ may propose fewer inspections in a particular area, such as industrial stormwater, for a limited time (e.g., up to 2 years) to use those resources to explore or ground-truth innovative compliance monitoring approaches and techniques. Such a trade-off in an alternative CMS requires justifying the innovative approach by including a description of the expected results (i.e., how and when expected results will be documented and how the results could enhance the state, regional, and/or national program).

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