

**National Pollutant Discharge  
Elimination System (NPDES)  
Memorandum of Agreement (MOA)  
Between the State of Idaho Department  
of Environmental Quality  
and  
U.S. Environmental Protection Agency,  
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(Effective Date)



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# Memorandum of Agreement

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## I. Introduction

This Memorandum of Agreement (hereinafter, MOA) sets forth the terms, conditions, and agreements between the parties for carrying out the responsibilities and procedures as required by 40 Code of Federal Regulations (CFR) § 123.24 for how the National Pollutant Discharge Elimination System (NPDES) program will be administered by the State of Idaho through the Department of Environmental Quality (hereinafter, IDEQ) and subject to oversight by Region 10 of the United States Environmental Protection Agency (hereinafter, EPA or Region 10). The NPDES program may include, but is not limited to, individual wastewater and industrial discharge permits, general permits, storm water permits, pretreatment programs, sewage sludge, and federal facility permits. IDEQ is assuming authority for the program in phases, as provided by §402 of the federal Clean Water Act (hereinafter, the CWA), 33 U.S.C. § 1342. EPA will maintain authority of those parts of the program not yet assumed by the State.

If the EPA Regional Administrator (RA) determines that any provision of this agreement does not conform to the requirements of §§402(b), (c), (d), (e) and (f) of the federal Clean Water Act (hereinafter, the CWA), 33 U.S.C. §§ 1314(i), 1342(b), (c), (d), (e) and (f), or to the requirements of 40 CFR Parts 122-125, or other applicable federal regulations, the RA will notify the IDEQ Director of the need to revise this agreement, or other parts of the authorized program to be consistent with the currently applicable federal statutes and regulations, and may propose revisions or modifications as part of the notice (40 CFR §123.62). Either the IDEQ Director or the RA may initiate action to modify this agreement at any time. Modifications must be put in writing and do not take effect until signed by the IDEQ Director and the RA.

The IDEQ Director and the RA hereby agree to maintain a high level of communication, cooperation and coordination between IDEQ and EPA in a partnership to ensure successful and effective administration of the Idaho Pollutant Discharge Elimination System (IPDES) program. In this partnership, EPA will provide to IDEQ technical and other assistance on permit, compliance, and enforcement matters when requested, as appropriate and necessary, and as funding allows. Electronic exchange and submittal of information is encouraged to the maximum extent possible and appropriate.

IDEQ will administer an IPDES program in accordance with this MOA; applicable State legal authority; the annual State grant program plan (Performance Partnership Agreement or PPA); and consistent with the CWA §§304, 307 and 402 and applicable federal regulations. These mechanisms, along with the annual work planning process allow IDEQ and EPA to work together to strategically direct resources toward the most important issues. IDEQ has the primary responsibility to establish the IPDES program priorities consistent with national NPDES goals and objectives to the extent practicable.

The strategies and priorities for issuance, compliance monitoring, and enforcement of permits (against both unpermitted and permitted facilities) established in this MOA, may be set forth in

more detail in the PPA, or a State/EPA Enforcement Agreement signed by the IDEQ Director and the RA and/or persons delegated appropriate authority. The PPA and any other State/EPA agreement(s) regarding the IPDES program should be consistent with this MOA. However, in the event of any conflict or inconsistency, this agreement will control, consistent with 40 CFR §123.24(c).

## **II. Scope of Approval**

The IDEQ Director and the RA agree that IDEQ has been granted approval to administer the IPDES permitting, compliance, and enforcement programs for the following categories and classes of permits and discharges: individual and general permits, pretreatment, storm water programs, sewage sludge, and federal facilities. IDEQ does not have NPDES Program approval for facilities located in Indian country (defined in 40 CFR §122.2).

The IDEQ Director and the RA hereby agree that this memorandum of agreement applies to permits or portions of permits issued by IDEQ for discharges of pollutants from any point source to waters of the United States (as defined in the CWA); compliance, inspection, and enforcement of provisions within issued permits; and the administration of the IPDES program including the regulation of sewage sludge use and disposal practices. IDEQ's program, will be the Idaho Pollutant Discharge Elimination System (IPDES) program authorized by Idaho Code §§39-175A through 39-175E, and implemented through Idaho Statutes and rules adopted pursuant to the Idaho Administrative Procedures Act. The rules are published in the Idaho Administrative Code, IDAPA 58.01.25.

IDEQ will implement the IPDES Program consistent with Idaho authorities that EPA has determined are consistent with CWA §402 and 40 CFR Part 123. EPA and IDEQ agree to a phased program approach pursuant to CWA §402(n). Appendix A identifies the schedule to phase permitting, compliance, and enforcement authority from EPA to IDEQ for specific program components and permits. IDEQ will assume administration of the program components and permits per the agreed upon schedule in Appendix A.

EPA will continue to be the permitting authority for Indian Country as well as those parts of the NPDES program for which the State has not received approval during the phased implementation. EPA must review for approval certain variance requests. The continued EPA role to administer these specific program component(s) and/or permit(s) includes accepting applications; drafting permits and fact sheets; public noticing draft permits and review; preparing a response to comments; issuing permits; conducting inspections, audits, and reviews of various reports; and initiation of compliance and enforcement actions, and any other activities as necessary.

IDEQ will be responsible for carrying out all the aspects of the IPDES program as listed under section IV of this MOA.

In any event, EPA maintains concurrent authority with IDEQ to address noncompliance issues and to take enforcement actions.

This MOA sets forth procedures under which the EPA and IDEQ will coordinate their actions and share information regarding all matters, consistent with their respective legal obligations and authorities, in the administration of the IPDES program.

### **III. Effect of MOA**

Nothing in this MOA limits IDEQ's authority to take action under Idaho law.

Nothing in this MOA limits EPA's authority to take action under federal law, or establishes a nondiscretionary duty to take any action at any time.

Nothing in this MOA constitutes or creates any rights or valid defenses to regulated parties in violation of any environmental statute, regulation, or permit, including, without limitation, action taken by IDEQ or EPA.

Nothing in this MOA establishes an agency relationship or privity between EPA and IDEQ.

No waiver of sovereign immunity is implied or assumed in this agreement.

Nothing in this MOA will be construed as expanding or restricting the respective authority of either agency or as requiring or approving IDEQ to implement or administer any federal law, other than those portions of the CWA that the EPA has approved IDEQ to implement and administer.

### **IV. State Responsibilities**

IDEQ will exercise the legal authority contained in its state rules and statutes and, to the maximum extent possible, maintain the resources required to carry out all aspects of the approved IPDES program. The IDEQ program approved to implement the NPDES program pursuant to the requirements of the CWA is implemented through the Idaho Rules Regulating the Idaho Pollutant Discharge Elimination System Program (IDAPA 58.01.25) and the authorities set forth in Chapter 1, Title 39, Idaho Code.

In accordance with the priorities and procedures established in this MOA and/or as described in the PPA or other binding agreement between EPA and IDEQ, IDEQ will:

1. Create and maintain the legal authority and, to the maximum extent possible, secure the resources required to carry out all aspects of the IPDES program, including revisions to State program legal authorities, in accordance with 40 CFR Parts 123, 403 and 503.
2. Administer the authorized program, including receiving permit applications, issuing or denying IPDES permits, and providing compliance and enforcement activities in compliance with state authorities that are consistent with applicable federal laws.
3. Issue and administer general permits, in accordance with IDEQ requirements consistent with 40 CFR §122.28, to the extent the IDEQ issues general permits.
4. Ensure that EPA is kept fully informed and up-to-date regarding:
  - a. Draft and final policy and program development documents related to the IPDES program and/or IDEQ's ability to fully implement the IPDES program;

- b. Draft, proposed, and final statutes, rules and/or regulations related to the IPDES, program and/or IDEQ's ability to fully implement the IPDES program;
  - c. New case law, settlement agreements, and remands of rules related to the IPDES program and/or IDEQ's ability to fully implement the IPDES program; and
  - d. Draft, proposed, and final technical guidance and policies, which pertain to the IPDES program and/or IDEQ's ability to fully implement the IPDES program.
5. Ensure that any proposed revision of the IPDES program is submitted to EPA for approval pursuant to 40 CFR §123.62(b).
  6. Revise the IPDES program including revisions to state rules, as needed to conform to new federal regulations, within two years of the date of promulgation of the new federal statutory amendments or regulations, as provided in 40 CFR §§123.62(e) and 403.10.
  7. Process IPDES permit applications in a timely manner and propose to issue, reissue, modify, terminate, deny, or revoke and reissue IPDES permits consistent with IDAPA 58.01.25.
  8. Develop and maintain a Continuing Planning Process document per CWA §303(e) and 40 CFR §130.5. Activities to maintain current planning processes may be identified in the PPA.
  9. Comprehensively evaluate and assess facility compliance with enforceable documents including permits, administrative orders, consent orders, court orders, and any applicable enforcement actions which deal with IPDES program issues including compliance with permit conditions, effluent limitations, reporting, best management practices, compliance schedules, and operation and maintenance.
  10. Maintain a vigorous program of taking timely and appropriate enforcement actions for IPDES permit violations, unpermitted discharges, pretreatment program, and sewage sludge program violations in accordance with Idaho statutes and rules, and consistent with federal NPDES requirements. IDEQ agrees to review the EPA's national and regional policies and guidance when adopting corresponding or related IDEQ policies and guidance and agrees to adopt IDEQ policies or guidance that are consistent with the CWA and applicable federal regulations. In the absence of IDEQ policies and guidance, IDEQ agrees to consider implementing EPA's policy and guidance.
  11. Maintain an effective program to carry out the pretreatment responsibilities in accordance with 40 CFR §§403.8(f) and 403.10(e) and (f), to the extent IDEQ has pretreatment approval.
  12. Maintain an effective program to carry out the sewage sludge responsibilities in accordance with 40 CFR Part 503.
  13. Maintain information, which must be easily accessible to EPA, for program evaluation for each IPDES permit and for each significant industrial user (SIU) for which IDEQ is the control authority for a minimum of the previous five years or until such permit is reissued; this includes, but is not limited to the minimum data requirements for national databases. This information will also be available to the public to the extent required by §308(b) of the Clean Water Act, except to the extent it is enforcement confidential. Where applicable, such files must include, at a minimum, copies of:
    - a. permit application, including attachments;
    - b. proposed permit and/or current final issued permit, or final order of denial;
    - c. fact sheet or statement of basis, including effluent data;
    - d. draft permit submitted for public notice and comment;

- e. public notice;
  - f. timely public comments received in writing, orally at a public meeting, and IDEQ's response to comments;
  - g. annual reports from permittees, if required;
  - h. the rationale, if not included in the fact sheet, which details the permit limit calculations and development. The rationale will include both the technology and the water quality basis for the draft or proposed permit;
  - i. studies supporting permit limits (e.g., wasteload allocation, total maximum daily load, site specific analysis, and in-stream sampling data);
  - j. all discharge monitoring reports (DMRs), including whole effluent toxicity (WET), toxicity reduction evaluation (TRE), and in-stream sampling requirements;
  - k. all relevant inspection reports and compliance information;
  - l. all enforcement related documents for both formal and informal actions, including penalty calculation, assessment and collection;
  - m. relevant Compliance Schedule Reports;
  - n. storm water related documents, including storm water management plans and pollution prevention plans received by the State;
  - o. information regarding any bypass events and/or sanitary sewer overflows (SSOs);
  - p. requests for hearings, appeals, and any order issued by the State with respect to an appeal;
  - q. all pretreatment related documents, including the permittee's pretreatment program and annual report, as applicable;
  - r. concentrated animal feeding operation (CAFO) related documents submitted by the CAFO to IDEQ; and
  - s. other pertinent information and correspondence.
14. Submit to EPA the information described in Appendix A of 40 CFR 127 and identified in section X.D of this MOA. Additionally, upon request by EPA, IDEQ will submit specific information and allow access to any files necessary for evaluating IDEQ's administration of the IPDES, pretreatment, and sewage sludge programs within a time-frame agreed upon by EPA and IDEQ in the PPA.
15. Ensure that the conditions of the draft permit are written to achieve applicable water quality requirements of all affected or downstream States and Indian Tribes, and that all affected States and Indian Tribes are, at a minimum, provided timely notice of such draft permit and any other information requested per IDAPA 58.01.25.302.06.c.
16. Input or ensure reporting for all regulatory nationally required data elements for all IPDES regulated facilities [e.g., majors, non-majors, storm water, pretreatment (SIUs where the State is the control authority), concentration aquatic animal production (CAAP) facilities, and CAFOs] into ICIS-NPDES, or its successors, as provided under 40 CFR §123.27
17. Make available to EPA any information obtained or used by IDEQ under the IPDES, pretreatment, and sewage sludge programs upon request without restriction due to claims of confidentiality unless otherwise required by law. IDEQ will determine if information submitted by an applicant under a claim of confidentiality is confidential (i.e., confidential business information) in accordance with state law and identify the material accordingly. EPA will be informed of any confidential information that is transmitted to

EPA. EPA will treat such claims as confidential in accordance with 40 CFR Part 2 Subpart B and 40 CFR §§122.7 and 403.14.

## **V. EPA Responsibilities**

1. EPA will provide, to the maximum extent possible, funding to IDEQ to support IDEQ's responsibilities under the IPDES program, and will provide training in permit writing, compliance inspections, and enforcement, subject to the availability of appropriated funds and EPA authority. As required by the Anti-Deficiency Act, 31 USC §§1341 and 1342, all commitments made by EPA in this MOA are subject to the availability of appropriated funds. Nothing in this MOA, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with EPA budget priorities.
2. EPA will oversee IDEQ administration of the IPDES program on a continuing basis for consistency with the CWA, Idaho law or rules, this MOA, the PPA, and all applicable federal regulations. In addition, EPA may consider as a part of its assessment, comments from dischargers, potentially affected Tribal governments, the public, and federal and local agencies concerning IDEQ administration of its IPDES program. Any such comments considered by EPA will be brought to the attention of IDEQ by written correspondence, if the commenting party has not previously communicated with IDEQ.
3. EPA will provide appropriate assistance in obtaining retrievals from, and training for, the entry and use of information into the Integrated Compliance Information System for the Clean Water Act National Pollutant Discharge Elimination System (ICIS-NPDES), or its successors. After initial ICIS-NPDES training by EPA, additional support will be provided to IDEQ upon request and as resources allow. Changes in ICIS-NPDES procedures will be provided to IDEQ sixty (60) calendar days in advance of such change, if possible.
4. Using an easily accessible format, to the fullest extent allowable, and subject to applicable confidentiality considerations, EPA will ensure that IDEQ is kept fully informed and up-to-date regarding:
  - a. Draft and final policy and program development documents which impact the IPDES program;
  - b. Draft, proposed, and final regulations which impact the IPDES program; and
  - c. Draft, proposed and final technical guidance and policies which impact the IPDES program.
5. EPA will review and comment on draft permits, proposed permits, pretreatment program actions, and any future IPDES or pretreatment program modifications as identified in 40 CFR §123.44 and section VII.F of this MOA.
6. EPA will provide technical assistance regarding the interpretation of regulations and guidance for the development of draft and proposed permits.
7. EPA will conduct timely and appropriate enforcement and compliance monitoring activities within Idaho, as appropriate.
8. EPA will provide IDEQ with copies of inspection reports and formal enforcement actions, as appropriate.

9. EPA will input all required data into ICIS-NPDES for the facilities EPA retains authority over or where EPA takes federal action. EPA retains authority, unless IDEQ is expressly approved, for all NPDES activity in Indian Country.
10. EPA will issue decisions on variance requests for which the CWA retains authority for EPA to issue the decision.
11. EPA and IDEQ agree to the use of electronic communications for much of the communication specified in this MOA.
12. Nothing in this MOA will be construed to limit EPA's authority to take action under the CWA including, but not limited to, §§307, 308, 309, 311, 402, and 504.

## **VI. Jurisdiction**

The IPDES Program is approved [subject to EPA's oversight and enforcement authority pursuant to CWA §§ 304(i) and 402(d) and (i)] to perform permitting, compliance, and enforcement activities of the IPDES Program, including, but not limited to: permitting, pretreatment, sewage sludge, and federal facilities. IDEQ and EPA will transmit and receive information regarding the IPDES Program in accordance with 40 CFR §§123.41, 123.42, and 123.43.

IDEQ is responsible for drafting, providing public notice, issuing, modifying, revoking and reissuing, denying, and terminating permits in accordance with this MOA, and applicable Idaho statutes and rules that are consistent with the CWA and federal regulations promulgated at 40 CFR Parts 122 and 123.

1. IDEQ shall:
  - a. Assume permitting, compliance, and enforcement obligation for facilities in its jurisdiction with the exception of Indian Country. This shall be done in accordance with the transfer schedule set forth in Appendix A of this agreement.
  - b. Evaluate and determine compliance for facilities subject to the IPDES program.
  - c. Enforce state law and State permits at facilities with EPA-issued NPDES permits, except for those in Indian Country.
2. In its IPDES permits, IDEQ may include requirements from Idaho statutes, rules, and policies on sewage sludge and other state programs other than those referenced in IDAPA 58.01.25 (e.g., IDAPA 58.01.16.650) to ensure consistency with all appropriate state laws and regulations. IDEQ will, however, ensure that no permit or fact sheet references sewage sludge regulations, standards, or requirements of a non-approved program that are not consistent with 40 CFR 503.
3. Upon program approval and in accordance with the transfer schedule in Appendix A, EPA shall:
  - a. Retain permitting, compliance, and enforcement authority for facilities located in Indian Country (except as otherwise noted). EPA shall suspend the issuance of

- NPDES permits for those activities subject to the approved IPDES Program except as otherwise provided in this section.
- b. Retain full jurisdiction for permits for which an appeal has been filed at the time of program authorization until that matter is resolved. Upon resolution of the administrative or judicial challenge and in accordance with the transfer schedule in Appendix A, EPA will notify IDEQ and the permittee that authority for the permit has been transferred to IDEQ. EPA will make every effort to resolve these issues in a timely manner, and if requested by either EPA or IDEQ, will meet to discuss issues pertaining to NPDES permits retained by EPA. IDEQ shall retain its rights under CWA §401 to consider state certification to subsequent EPA permitting actions on NPDES permits for which EPA retains authority.
  - c. Process appeals, modification requests, and variance requests pertaining to permits issued by EPA that EPA retains authority over. EPA will copy IDEQ on all correspondence and permitting decisions.
4. Upon program approval and notwithstanding the transfer schedule in Appendix A and other provisions in this MOA, EPA shall continue to work on specific permits identified in and negotiated via the PPA for the following circumstances:
- a. A permit where EPA has substantially completed the permitting process or concluded a public review period. Appendix B of this agreement lists EPA's permit issuance schedule and the permits that could be on public notice at the time of IPDES Program approval. EPA will provide a final list to IDEQ of permits that EPA has substantially completed or that are on public notice at the time of program approval. Upon EPA's completion of the proposed permit, the permit will be issued by IDEQ and authority over the permit, including compliance and enforcement, will be the responsibility of IDEQ. In certain cases, if mutually agreed to by EPA and IDEQ, IDEQ may prepare the proposed permit from an EPA-drafted permit and issue the permit.
  - b. Permits where EPA and IDEQ agree that, due to workload issues and resources, EPA may perform the work up to drafting a proposed permit. Upon EPA's completion of the proposed permit, the permit will be issued by IDEQ and authority over the permit, including compliance and enforcement, will transfer to IDEQ.
  - c. A facility where EPA has a pending or ongoing EPA enforcement action. EPA will complete the enforcement action for permits under active federal enforcement cases (administrative orders or formal referrals to the Department of Justice). IDEQ will assume permitting, compliance monitoring, and pretreatment responsibilities and take the lead on future enforcement actions when such facilities are transferred upon resolution of the enforcement action consistent with the schedule in Appendix A, subject to EPA's oversight and enforcement authority pursuant to the CWA §§402(d) and (i). As each EPA enforcement action is resolved, EPA will notify IDEQ and transfer any additional permit file materials at that time. EPA will make every effort to resolve these matters in a timely manner. Resolution of an enforcement action may be accomplished by:

- i. the permittee's compliance with the requirements of a compliance order, consent agreement, or court order resulting from the EPA enforcement action;
  - ii. withdrawal of the action by EPA;
  - iii. a court decision dismissing the action (in whole or in part); or
  - iv. if agreed to by EPA, the imposition of an equivalent state enforcement action by IDEQ.
5. A current or administratively extended NPDES individual or general permit transferred to IDEQ will remain in effect and be deemed an IPDES individual or general permit. At the time authority is transferred from EPA to IDEQ, IDEQ will transmit an IPDES individual or general permit cover sheet to the permittees covered under the individual or general permit that will replace the NPDES individual or general permit cover sheet. The cover sheet will include the: name of the permit, permit effective date, and IDEQ telephone number and address for inquiries and where to send information. At reissuance, a state-issued IPDES individual or general permit will replace the transferred NPDES individual or general permit and state certification, if applicable.
6. If the permittee or IDEQ requests and EPA concurs, EPA may continue to process an NPDES permit application that is pending with EPA at the time permitting and compliance and enforcement authority are transferred to IDEQ in accordance with the schedule in Appendix A. IDEQ is responsible for final issuance for all permits upon taking over responsibility of that program component in accordance with 40 CFR §123.1(d) and the transfer schedule in Appendix A.
7. If an EPA objection over a state proposed IPDES permit is not resolved in the timeframes set forth in EPA's regulations (40 CFR §123.44) and this MOA, then EPA will assume exclusive Clean Water Act permitting, compliance, and enforcement authority for that facility, pursuant to federal law [CWA §§402(d)(2) and (4)]. At the end of the term of the permit issued by EPA, IDEQ will be responsible for issuing the next permit, and EPA will transfer the files back to the State.
8. Upon request, EPA will assist IDEQ in ensuring compliance at federal facilities as resources allow.

## **VII. Permit Issuance and Review**

### **A. Receipt of New Permit Applications and NOIs by the State**

Within forty (40) calendar days after receipt of a complete permit application or notice of intent for coverage under an IPDES general permit, IDEQ will ensure all required information is transmitted to ICIS-NPDES in accordance with 40 CFR §127.23.

## **B. EPA Permits**

Within forty (40) calendar days after receipt of a complete permit application or notice of intent for coverage under an NPDES general permit, EPA will input all required data into EPA's national CWA NPDES database for the facilities EPA retains authority over. In addition, when required, EPA will coordinate with IDEQ on CWA §401 certification.

## **C. Permit Issuance**

If IDEQ's final determination is to issue the permit, the permit will be forwarded to the permit applicant, along with a transmittal letter conveying IDEQ's decision. An electronic copy of the final issued permit and fact sheet will be made available to EPA.

## **D. Notice to Deny**

If IDEQ's final determination is to deny the permit, notice of intent to deny must be given to EPA and the applicant in accordance with IDAPA 58.01.25 and NPDES regulations.

## **E. Permit Reissuance**

All expiring IPDES permits for which timely and complete permit renewal applications have been submitted should be reissued on or before their expiration date. If such timely reissuance is not possible the permit is administratively continued beyond its expiration date, as allowed by Idaho law, but in no event will the extended permit be modified. An administratively extended permit remains in effect and enforceable until such time as a new IDEQ permit is issued. EPA may periodically request from IDEQ the status of such permits.

In accordance with Idaho rules, a federally issued NPDES permit in effect at the time EPA approves the IPDES Program continues in effect and becomes an IPDES permit in accordance with the transfer schedule identified in Appendix A of this MOA.

## **F. EPA Review of Draft and Proposed Permits, Permit Modifications, and Permit Revocations and Suspensions**

On an annual basis, IDEQ will transmit to EPA an annual Permit Issuance Plan as part of the PPA which will identify the permits IDEQ intends to issue during the upcoming year; EPA and IDEQ may agree to revisions to this Plan, as appropriate. EPA does not waive the right to review, object to, or comment on the sufficiency of preliminary draft permits, draft permits, proposed permits (to the extent that they must be submitted to EPA), and final (issued) permits for all discharges or proposed discharges.

1. For the purposes of clarity in this section, a draft permit is one that IDEQ is currently developing or that has been developed and noticed for public comment. A proposed permit is one that IDEQ is proposing to issue after completion of the public comment process. These types of permits are defined in 40 CFR §122.2 and IDAPA 58.01.25.010 . IDEQ may confer with EPA for informal review of permit documents prior to issuing any permit or permit modification for public notice to ensure that the permit will comply with the federal Clean Water Act. IDEQ shall electronically transmit to EPA appropriate

portions of working documents in connection with these consultations. During informal review of a permit, EPA may request to review the proposed permit.

2. EPA and IDEQ agree that EPA shall review draft permits rather than proposed permits. EPA, however, may choose to review a proposed permit instead of, or in addition to, review of the draft permit. A proposed permit need not be prepared by IDEQ and transmitted to EPA for review unless
  - a. IDEQ proposes to issue a permit which differs from the draft permit reviewed by EPA,
  - b. EPA has objected to the draft permit,
  - c. there is significant public comment on the draft permit, or
  - d. EPA requests in writing to review the proposed permit.

IDEQ will not proceed to issue a permit if there are unresolved EPA objections to the permit. Submission of a revised draft permit that meets EPA's objections restarts the review process and refreshes the timeframe for review under this MOA.

3. For the purposes of this section, EPA's review of permit modifications, revocations and reissuances, will follow the same procedures as outlined for the review of a draft individual permit or draft general permit, as appropriate.
4. IDEQ will notify EPA of draft individual permits available for public review. IDEQ will electronically transmit to EPA one copy of the complete permit application, the public notice, the draft individual permit, and the fact sheet associated with the draft permit, for formal review. Upon request by EPA, IDEQ will provide EPA with electronic copies of documents related to or supporting the draft permit.
  - a. Within 30 calendar days of EPA's receipt of a draft individual permit, the RA or designee will send to IDEQ written comments on, objections to, or recommendations with respect to the draft permit or may notify IDEQ of its intent to review the proposed rather than draft permit. However, EPA reserves the right to take up to a total of ninety (90) calendar days from receipt of the draft permit to provide comments on, objections to, or recommendations with respect to the draft permit, provided that EPA notifies IDEQ in writing within the 30 day review period that it wishes to take up to ninety (90) calendar days to do so.
  - b. A notification of objection to a draft individual permit by EPA during the initial 30 day period need only set forth the general nature of the objection(s) pursuant to 40 CFR §123.44. If a general objection is filed within the 30 day period, EPA will have the remainder of ninety (90) calendar days from the date EPA received the draft permit to supply specific grounds for objection. Notwithstanding the foregoing, EPA and IDEQ may mutually agree to extend EPA's review time on a particular draft permit to the full ninety (90) calendar days without filing a general objection during the initial period. Nothing in this agreement waives EPA's right to submit a general objection to the draft permit and request the full ninety (90) calendar days to review a draft permit to provide a specific objection. EPA will also send a copy of any comments, objections, or recommendations on a draft individual permit to the permit applicant.

- c. In the event EPA files a general objection to a draft individual permit, EPA will have ninety (90) calendar days from the date of EPA's receipt of the most recent complete draft permit to submit in writing to IDEQ the specific grounds for objection, including:
  - i. A Statement of the reason for the objection (including the section of the CWA or regulations that support the objection -- EPA's objection to the issuance of a proposed permit must be based upon one or more of the grounds listed in 40 CFR §123.44(c); and
  - ii. the actions that must be taken by IDEQ to eliminate the objection (including the effluent limitations and conditions that the permit would include if it were issued by EPA).
  - iii. For the purposes of computing time, IDEQ and EPA agree that IDAPA 58.01.25.050.01 and 40 CFR 124.20(c) apply to the term calendar days.
  
- 5. At the time a draft general permit is available for public review, IDEQ shall electronically transmit to EPA one copy of the public notice, draft general permit, and the fact sheet associated with the draft general permit for formal review. Within ninety (90) calendar days of EPA's receipt of a draft general permit, the RA or designee may submit in writing to IDEQ comments on, objections to, or recommendations with respect to the draft general permit.
  - a. Within ninety (90) calendar days of EPA's receipt of a draft general permit, the RA or designee may submit in writing to IDEQ comments on, objections to, or recommendations with respect to the draft general permit. If EPA does not object to the draft general permit in writing within ninety (90) calendar days of receipt and no significant public comment on the general permit is received during the public review period, then IDEQ may proceed to issue the general permit. If significant public comment is received, IDEQ will develop responses to those comments, including changes to the permit, and provide EPA a new draft permit, according to the procedures specified above.
  - b. In the event EPA files a general objection to a draft general permit, EPA will have ninety (90) calendar days from the date of EPA's receipt of the most recent complete draft permit to submit in writing to IDEQ the specific grounds for objection, including:
    - i. A Statement of the reason for the objection (including the section of the CWA or regulations that support the objection -- EPA's objection to the issuance of a proposed permit must be based upon one or more of the grounds listed in 40 CFR §123.44(c); and
    - ii. the actions that must be taken by IDEQ to eliminate the objection (including the effluent limitations and conditions that the permit would include if it were issued by EPA).
    - iii. For the purposes of computing time, IDEQ and EPA agree that IDAPA 58.01.25.050.01 and 40 CFR 124.20(c) apply to the term calendar days.

- c. As agreed in this MOA, EPA and IDEQ agree to a process for EPA to review any submission of a notice of intent (NOI) to be covered under a general permit. EPA may request to review any applicant's notice of intent to be covered under a general permit. IDEQ will provide a copy of the NOI to EPA within 10 days of EPA's request. Within 20 days after receipt of the application for coverage, EPA will notify IDEQ of any formal objections to the applicant's suitability for coverage under the general permit and request issuance of an individual permit as provided by 40 CFR §122.28(b)(3). If EPA determines that the applicant does not meet the eligibility criteria of the general permit, IDEQ and EPA will meet to discuss the basis for EPA's concerns.
6. Prior to notifying IDEQ of an objection based upon any of the grounds set forth in 40 CFR §123.44(c), EPA:
  - a. must consider all data transmitted pursuant to 40 CFR §123.43,
  - b. may if the information provided is inadequate to determine whether the draft permit meets the guidelines and requirements of the CWA, request IDEQ to transmit to EPA the complete record of the permit proceedings before IDEQ, or any portions of the record that EPA determines are necessary for review. If this request is made within 30 days of receipt of IDEQ's submittal under 40 CFR §123.43, it will constitute an interim objection to the issuance of the permit, and the full period of time specified in this section, as appropriate, for EPA's review will recommence when EPA has formally received all of the requested information, and
  - c. in its discretion, and to the extent feasible within the periods of time set forth in this section, afford to the public an opportunity to comment on the basis for the objection.
7. Within ninety (90) calendar days of receipt by IDEQ of an objection by EPA, IDEQ or any interested person may request that a public hearing be held by EPA on the objection in accordance with 40 CFR §§123.44(e) and (f). If the hearing is requested by IDEQ, EPA must hold the hearing. Following the public hearing, EPA must reaffirm the original objection, modify the terms of the objection, or withdraw the objection and must notify IDEQ of the decision.
8. If IDEQ does not submit a revised permit that meets EPA's objections within ninety (90) calendar days of the notice of objection (or thirty (30) calendar days following EPA's reaffirmation of the original objection or modification of the objection following a public hearing on the objection), EPA may issue the permit in accordance with 40 CFR Parts 121, 122 and 124, and any other guidelines and requirements of the CWA. Exclusive authority to issue the permit passes to EPA. Following the issuance of an EPA-issued permit and its permit cycle, authority to reissue the permit reverts to IDEQ.
9. Following the close of the public comment period on a draft general or individual permit, a new draft permit may be prepared or proposed permit will be prepared, a response to comments developed, and the fact sheet revised as appropriate to reflect the proposed permit. IDEQ may issue the permit without further review by EPA unless one of the 4 criteria identified in item 2 above is met.

10. If any exceptions listed in 2 above occur, then IDEQ will send to EPA one copy of the proposed permit, copies of the written public comments received, including meeting records, and a response to comments prepared under IDEQ's rules. EPA may comment upon, object to, or make recommendations to the proposed permit pursuant to the process set forth in this section above.
11. An electronic copy of the final issued permit with authorizing signature and date, fact sheet revised to reflect the issued permit, response to comments, must be transmitted to EPA.
12. Subject to waivers of permit reviews, and annual agreement between EPA and IDEQ, IDEQ must notify EPA whenever it intends to terminate or revoke and reissue an effective IPDES permit or coverage under a general permit. IDEQ must transmit to EPA a copy of any permit that it proposes to modify or revoke and reissue with the proposed changes and comments, if any were submitted, by downstream States and Indian Tribes clearly identified. The procedures in this section must be followed with respect to modifications by IDEQ of any issued permit and, for purposes of this MOA, each permit proposed to be modified must follow the same procedures as a new permit, except for permits that undergo minor modifications, as described in IDEQ's approved program.

## **G. Public Participation**

The public notification provided in the permit process must be consistent with the provision in 40 CFR Part 124 applicable to state programs and with IDAPA 58.01.25.109.

1. IDEQ will give public notice in accordance with IDAPA 58.01.25.109 [40 CFR 124.10(c), (d) & (e)] whenever a draft permit has been prepared under IDAPA 58.01.25.108 [40 CFR 124.6(d)] or a meeting has been scheduled pursuant to IDAPA 58.01.25.109.01.i [40 CFR 124.12].
2. Public notice of the draft permit will allow at least thirty (30) calendar days for public comment, and notice of a public meeting, if one is determined to be appropriate, will be given in accordance with IDAPA 58.01.25.109.
3. IDEQ will make available to the public upon request all permit applications and inspection reports, as well as posting to the department's website draft permits (individual and general), public notices, fact sheets or statements of basis, proposed permits, and final issued permits, effluent data, and other documents pertaining to the IPDES program (except information claimed and/or determined to be confidential in accordance with 40 CFR §122.7 or Idaho Public Records Act Chapter 1 Title 74 Idaho Code).
4. IDEQ will prepare and distribute copies of all public notices and fact sheets in accordance with Idaho rules, consistent with federal regulations found in 40 CFR §§124.8 and 124.10. Unless otherwise waived by the specific organization, in addition to the general public notice described in IDAPA 58.01.25.109.01 [40 CFR 124.10(d)(1)], IDEQ will transmit to the following organizations, an electronic copy of the fact sheet or any

comparable rationale, permit application (if any) and draft permits (if any) associated with the notice:

- a. U.S. Army Corps of Engineers;
  - b. U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (the Services);
  - c. Other appropriate State and federal agencies, as determined by IDEQ;
  - d. Adjacent States and Indian Tribes (for permits which have the potential to affect them or the State or Tribe have expressed interest); and,
  - e. The State Historical Preservation Officer (SHPO).
5. IDEQ will provide an opportunity for judicial review in Idaho court of the final approval or denial of permits that is sufficient to provide for, encourage, and assist public participation in the permitting process in accordance with IDAPA 58.01.25.204 and Chapter 52, Title 67, Idaho Code [40 CFR 123.30].
6. The public notice and comment procedures required by Idaho's statute or rule will be followed with respect to all permit modifications to final issued permits, except for minor permit modifications as provided in IDAPA 58.01.25.201 [40 CFR 122.63]. Public notice of the permit modification application will be given in the same manner as for initial permit applications.

## **H. Discharger List**

IDEQ and EPA will input current data into the ICIS-NPDES database for all major and minor facilities for which they are responsible (i.e., those agreed upon in a PPA, Compliance Monitoring Strategy (CMS) plan, etc.).

A domestic major facility is a facility classified by IDEQ or EPA (40 CFR §122.2) as a major discharger based on a design treatment plant flow of at least 1.0 MGD, an approved Pretreatment Program, a high potential for violation of water quality standards, or poses a potential or actual threat to human health or the environment.

A nondomestic major facility is a facility classified by IDEQ or EPA (40 CFR §122.2) as a major facility based on the NPDES Permit Rating Work Sheet that is based on EPA's NPDES Permit Rating Work Sheet, plus any additional dischargers that, at the discretion of IDEQ or EPA, should be classified as a major due to a high potential for violation of water quality standards and/or a history of chronic violations.

## **I. Administrative or Court Action**

If the terms of any permit, including any permit for which review has been waived by EPA, are affected in any manner by an administrative or court action, IDEQ must transmit to EPA a copy of the permit in a timely manner, with changes identified. EPA may comment upon, object to, or make recommendations to the revised permit pursuant to 40 C.F.R. §123.44 and section VII of this MOA.

## **J. Variances**

There are several types of variances available under federal and state law. IDEQ is authorized to grant some kinds of variances but not others. The different types of variances, and the respective authority of IDEQ and EPA to address them, are spelled out in IDAPA 58.01.02.25.310 and 40 CFR §124.62, respectively.

Because of the variety of variances, and the differences in how they should be processed, IDEQ will conduct an initial review of any request for a variance and shall also advise appropriate staff at EPA of the request. IDEQ and EPA will consult to determine the applicable review and approval process for the particular type of variance requested. The schedule for the staff consultation and for the substantive review process shall be negotiated by staff on a case-by-case basis. With regard to variances under CWA §§301(i) and (k) and 316(a), IDEQ may deny or approve the request. IDEQ must send a copy of the determination to the requester and EPA. With regard to “fundamentally different factors,” variances under §301(c) and (g), and modifications under §302 of the CWA, IDEQ may deny the request, and such determination will be forwarded to the requester and EPA. If IDEQ determines that factors do exist that may warrant such a variance, it will send the request and recommendations to EPA. If EPA denies a variance request, IDEQ must so notify the requester. If EPA approves a variance request, IDEQ must prepare a draft permit factoring in the variance.

## **K. Appeals**

IDEQ will provide EPA with a copy of all judicial and administrative law decisions, as well as any formal settlement agreements that IDEQ enters into, that impact IDEQ's ability to implement the IPDES Program in accordance with federal requirements.

When IDEQ makes a determination to stay a permit, in whole or in part, IDEQ will notify EPA.

## **L. Procedures to Transfer EPA-issued NPDES Permits to IDEQ-issued IPDES Permits**

1. EPA will retain permitting and compliance and enforcement authority for EPA-issued permits for facilities located within Indian Country.
2. Subject to EPA’s oversight and enforcement authority pursuant to CWA §§402(d) and (i) and upon program approval in accordance with the transfer schedule in Appendix A of this MOA, IDEQ will assume authority for permitting, compliance, and enforcement activities for the IPDES Program. A current EPA-issued NPDES permit transferred to IDEQ will serve as an IPDES permit and will remain in effect and enforceable under state law [IDAPA 58.01.25.101] until such time as IDEQ takes action. The terms and conditions of the transferred permit will be identical to the EPA-issued NPDES permit.
3. An administratively extended EPA-issued permit becomes an IDEQ administratively extended permit at the time of program approval [IDAPA 58.01.25.101] and transfer of authority over the permit per the schedule in Appendix A.
4. Within thirty (30) days of transfer of a current or administratively extended permit from EPA to IDEQ, IDEQ will:

- a. Notify the permittee, with a copy to EPA, that authority to administer the permit has transferred to IDEQ and that the EPA-issued NPDES permit will serve as an IPDES permit and remain in effect along with the state-issued CWA §401 certification.
  - b. Send the permittee updated contact information for reporting requirements under the permit.
  - c. Provide a new cover page to the permit that lists the date that the permit authority is transferred from EPA to IDEQ and the new permit number (if different). The permit expiration date will not change as a result of the permit transfer.
5. An IPDES permit issued by IDEQ will replace an EPA-issued NPDES permit with the state CWA §401 certification.

## **VIII. Pretreatment Program**

### **A. General**

This section defines IDEQ and EPA responsibilities to establish, implement, and enforce the National Pretreatment Program, pursuant to the State rules, CWA §307, and CWA §402. IDEQ will apply and enforce the pretreatment regulations as required by 40 CFR Part 403, and EPA will oversee IDEQ's pretreatment program operations consistent with 40 CFR Part 403 regulations and this agreement. Terms in this section are defined in 40 CFR §403.3, unless otherwise noted.

1. As IDEQ issues, reissues, or modifies permits in accordance with section VIII of this agreement, IDEQ will include appropriate pretreatment conditions in those issued, reissued, or modified permits. Appropriate pretreatment conditions include, but are not limited to, the following:
  - a. required compliance with 40 CFR Part 403 and corresponding Idaho law,
  - b. approved POTW Pretreatment Program requirements,
  - c. submission of a technical evaluation of the need to revise local limits within a specified period and based in part on monitoring over the previous IPDES permit period, and
  - d. at least semi-annual monitoring of influent, effluent, and sewage sludge for specific pollutants of concern which may be received from Industrial Users of the POTW.
2. IDEQ will serve as:
  - a. the "Control Authority" for those industrial users who introduce pollutants into a POTW which has not been approved to have a Pretreatment Program, or where IDEQ assumes that authority pursuant to 40 CFR §403.10(e), and therefore implements the Control Authority responsibilities in 40 CFR Part 403 and
  - b. the "Approval Authority" for an Approved POTW Pretreatment Program.
3. EPA retains authority over facilities in Indian Country, unless EPA has specifically approved the IDEQ to operate the Pretreatment Program over those facilities.

## **B. Program Responsibility, Including Permitting, Compliance Monitoring and Enforcement**

Subject to the schedule set forth in Appendix A and EPA's oversight and enforcement authority, IDEQ will fully implement its approved Pretreatment Program as provided in IDAPA 58.01.25.003.02, IDAPA 58.01.25.370, and Chapter 1, Title 39, Idaho Code, including the following responsibilities:

1. Enforce as appropriate against discharges prohibited by IDAPA 58.01.25 and 40 CFR §403.5.
2. Identify and regulate Significant Industrial Users (SIUs) and non-significant Industrial Users (IUs) who introduce pollutants into a POTW without an approved pretreatment program. If IDEQ runs the pretreatment program in lieu of local authorities, IDEQ will assure full implementation of the program [40 CFR §§403.10(e)].
3. Seek civil and criminal penalties and injunctive relief (including a temporary restraining order), as appropriate, for noncompliance by a POTW with pretreatment conditions incorporated into the POTW permit and for noncompliance with National Pretreatment Standards and Requirements by Industrial Users (IUs), as set forth in 40 CFR §§403.8(f)(1)(vi), 403.10(f)(iv) and 403.5(c).
4. Where IDEQ has not elected to assume the role of a Control Authority, review, approve, or deny a POTW Pretreatment Program in accordance with the procedures at 40 CFR §§403.8, 403.9 and 403.11. Review and approve program modifications, as specified in 40 CFR §403.18.
5. Where IDEQ has not elected to assume the role of a Control Authority, incorporate approved POTW Pretreatment Program conditions in a NPDES permit issued to a POTW, as required in 40 CFR §403.8 and CWA §402(b)(8); require compliance by a POTW with the incorporated NPDES permit conditions; and require compliance by IUs with National Pretreatment Standards and Requirements.
6. Where IDEQ has not elected to assume the role of a Control Authority, require approved POTW Pretreatment Programs to develop and enforce local limits, as necessary, as set forth in 40 CFR §403.5(c).
7. Where IDEQ has elected to assume the role of a Control Authority, develop and enforce local limits, when required by regulation or as necessary, including best management practices as necessary, where there are categorical users discharging to a POTW without an approved Pretreatment Program.
8. Require submission of reports from approved POTW Pretreatment Programs and Industrial Users, as outlined in 40 CFR §403.12.
9. Evaluate and assist continuing compliance:
  - a. of a POTW with pretreatment conditions incorporated into the POTW permit through review of monitoring reports submitted to IDEQ by the POTW, as required by 40 CFR §403.12;
  - b. of industrial users where IDEQ is the control authority; and
  - c. by IUs with National Pretreatment Standards through the review of self-monitoring reports submitted to the POTW or to IDEQ by the IUs, as required by 40 CFR §403.12.
10. Carry out inspection, surveillance, and monitoring procedures that will determine, without relying solely on self-monitoring information supplied by the POTW,

compliance or noncompliance by the POTW with pretreatment conditions incorporated into the POTW permit.

11. Carry out inspection, surveillance, and monitoring procedures that will determine, without relying solely on self-monitoring information supplied by the SIUs, compliance or noncompliance.
12. As specified in this agreement, review and recommend approval or denial to EPA of requests for Fundamentally Different Factors variances submitted by an IU in accordance with the criteria and procedures set forth in 40 CFR §403.13 and enforcement-related conditions in the POTW's IPDES permit.
13. Review and, as appropriate, approve POTW requests for authority to modify categorical pretreatment standards to reflect removal of pollutants by a POTW, in accordance with 40 CFR §§403.7, 403.9, and 403.11.
14. Analyze influent and effluent of a POTW to identify, without relying solely on self-monitoring information supplied by the POTW, compliance or noncompliance with pollutant removal levels set forth in the POTW's IPDES permit.
15. Investigate evidence of violations of pretreatment conditions set forth in the POTW permit by taking samples and acquiring other information, as needed.

### **C. National Pretreatment Standards Categorical Standards, 40 CFR §403.6(a)**

Pursuant to IDAPA 58.01.25.003.02 and 58.01.25.370, IDEQ must review requests from IUs for industrial category or subcategory determinations received within sixty (60) calendar days after the effective date of a National Pretreatment Standard for a subcategory under which an IU believes itself to be included or prior to discharge from an existing IU which adds or changes a process or operation which may be included in a subcategory, or prior to discharge from an IU which is a new source. IDEQ will prepare a written determination and justification as to whether the IU does or does not fall within that particular subcategory. IDEQ must forward its findings, a copy of the request, and necessary supporting information to EPA for concurrence. If EPA does not modify or object to IDEQ's proposed findings within sixty (60) calendar days after receipt thereof, IDEQ will take agency action to approve or deny the request.

### **D. Removal Credits and Net Gross, 40 CFR §§403.7, 403.11, 403.15**

Pursuant to IDAPA 58.01.25.003.02 and 58.01.25, IDEQ must review and approve a POTW application for removal credits for IUs who are or may be subject to National Pretreatment Standards in the future. IDEQ findings, the application, and supporting information must be submitted by IDEQ to EPA for review. No removal credits request may be approved by IDEQ if, during the thirty (30) calendar day (or extended) evaluation period provided for in 40 CFR §403.11(b)(1)(ii) and any hearing held pursuant to 40 CFR §403.11(b)(2), EPA objects in writing to the approval of such a submission, per 40 CFR §403.11(d).

If IDEQ receives a request for a net/gross adjustment of applicable categorical standards in accordance with 40 CFR §403.15, IDEQ will forward the application to EPA for a determination. Once this determination has been made, EPA will notify, in writing, the applicant and the applicant's POTW and provide reasons for the determination and any additional monitoring requirements EPA deems necessary.

### **E. Variances from Categorical National Pretreatment Standards for Fundamentally Different Factors (FDF), 40 CFR §403.13**

Pursuant to IDAPA 58.01.25.003.02 and 58.01.25.370, IDEQ will make an initial finding on all requests from IUs for variances from categorical National Pretreatment Standards for fundamentally different factors (FDFs), and in cases where IDEQ supports the variance, submit its findings, the FDF request, and supporting information to EPA for concurrence. IDEQ will not grant a FDF request until written concurrence has been received from EPA. IDEQ may deny requests for FDF without EPA concurrence.

### **F. Effective Integration of Pretreatment Enforcement Activities into the IPDES Program**

1. IDEQ's pretreatment enforcement response procedures and time frames will be adequate and timely to evaluate and assure compliance. Response procedures include reporting all regulated POTWs (including minor POTWs with approved POTW pretreatment programs) on the required noncompliance reports. The procedures will include taking appropriate enforcement action including when a POTW fails to submit approvable pretreatment programs, has violations of pretreatment requirements, or the POTW fails to submit timely reports.
2. IDEQ will initiate appropriate enforcement action against an approved POTW pretreatment program for failure to adequately enforce its IU control mechanisms. IDEQ will ensure that approved POTW pretreatment programs comply with the public participation requirements of 40 CFR Part 25 in the enforcement of National Pretreatment Standards and Requirements and comply with enforcement procedures of section XII. These public participation procedures must include provision for at least annual public notification in a newspaper(s) of general circulation that provide reasonable public notice within the jurisdiction(s) served by the POTW of IUs that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements, in 40 CFR §403.8(f)(2)(viii).
3. Where there is no POTW Pretreatment Program and IDEQ assumes the role of Control Authority, IDEQ will be directly responsible to have the procedures in place for categorical and significant non-categorical IUs in accordance with 40 CFR §§403.8(f)(2) and 403.10(f)(2)(i). IDEQ must exercise its enforcement procedures to enforce against violations of the Pretreatment Program Standards and Requirements.
4. IDEQ will take appropriate action against an approved POTW pretreatment program that is in noncompliance with 40 CFR Part 403. Noncompliance includes, but is not limited to:
  - a. Failure to meet milestones in enforceable schedules for submitting a required local pretreatment program,
  - b. Violations of IU or POTW permit conditions,
  - c. Other provisions and criteria that are identified as SNC for failure of a POTW to implement its pretreatment program see:  
[http://www.epa.gov/npdes/pubs/1990\\_potw\\_noncompliance\\_guidance.pdf](http://www.epa.gov/npdes/pubs/1990_potw_noncompliance_guidance.pdf), and

- d. Delinquent reports from IUs or approved POTW pretreatment reports.

## **G. Miscellaneous**

Nothing in this MOA is intended to affect any pretreatment requirement, including any standards or prohibitions, established by state or local law, as long as the state or local requirements are no less stringent than any set forth in the National Pretreatment Program or other requirements or prohibitions established under the CWA or federal regulations.

## **IX. Sewage Sludge Management Program**

IDEQ will ensure the treatment, transportation, disposal, application and management of sewage sludge is in accordance with applicable Idaho statutes or rules and consistent with §405 of the CWA and 40 CFR Part 503. The sewage sludge management program will be carried out in accordance with applicable state and federal statutes, regulations, rules, and this MOA.

IDEQ will incorporate sewage sludge conditions in IPDES permits; review and approve solid waste facility plans for municipal solid waste landfills; and, where necessary, issue sludge-only permits. In permitting cases, IDEQ will provide for public notice of permits and will modify, renew/reissue, and revoke these authorizations, as necessary. IDEQ will collect the necessary sewage sludge data in IPDES permits in accordance with appendix A to 40 CFR 127 (NPDES Electronic Reporting).

IDEQ will monitor compliance with requirements under Idaho rules (consistent with 40 CFR Part 503) and sewage sludge permit conditions in IPDES permits. The sludge management program will develop and implement procedures for taking appropriate enforcement actions to ensure resolution of compliance issues.

### **A. EPA Review of Draft and Proposed Permits**

1. EPA waives its review of draft or proposed sludge-only permits for all classes and categories of permit applications, except for a draft permit for a Class I sludge management facility. The categories of IPDES permits subject to EPA review or objection of sewage sludge permits will follow the same procedures as described in section VII of this MOA.
2. Definition of Class I Sludge Management Facilities. Class I sludge management facilities shall be considered as:
  - a. A POTW or combination of POTWs operated by the same authority with a design flow greater than 5.0 MGD and is either receiving from industrial users pollutants which pass through or interfere with the operation of the treatment plant, required to have an approved pretreatment program or are otherwise subject to pretreatment standards; and
  - b. Any other treatment works treating domestic sewage classified as a Class I Sludge Management Facility by RA in conjunction with IDEQ because of the potential for its sludge use or disposal practices to adversely affect public health or the environment.

## **B. Enforcement and Compliance Monitoring of the Sewage Sludge Program**

The enforcement procedures, compliance monitoring activities, and inspection sections, and all agreements contained therein, within this MOA shall also apply to sludge use and disposal practices.

## **C. Sludge Violation Report**

On an annual basis, IDEQ will submit a sludge violation report to EPA containing information on incidents of noncompliance occurring within the previous year by Class I sludge management facilities.

## **X. Reporting and Transmittal of Information**

### **A. IDEQ to EPA**

IDEQ will provide EPA with the following documents according to the timelines provided in the table below. Documents and other program information shall be transmitted electronically to the maximum extent possible. IDEQ shall pursue compliance with the e-Reporting Rule (effective date of December 21, 2015).

1. IDEQ CWA §401 certification of NPDES permits that EPA retains legal jurisdiction over that discharge to state waters	<i>Draft certification before public notice. Final certification at permit issuance.</i>
2. One copy of all permit applications; draft permits and permit modifications, including fact sheets; public notices; and as applicable, new source/new discharger determination	<i>When placed on public notice.</i>
3. One copy of an applicant's NOI to be covered by a general permit	<i>Within 10 days of EPA's request.</i>
4. Written comments received, meeting records (if applicable), IDEQ's response to comments on draft permits, proposed permits, and revised fact sheet to reflect changes to the proposed permit (if applicable) except those for which EPA has waived review	<i>Upon completion of the document by IDEQ.</i>
5. One copy of the proposed permit and revised fact sheet to reflect changes to the proposed permit, if applicable, unless EPA has reviewed and approved a draft permit that has not changed as a result of public comment	<i>Upon completion of the document by IDEQ.</i>
6. One copy of all final issued permits, including all minor and major modifications	<i>When issued.</i>
7. An annual list of facilities scheduled for a compliance inspection, including the inspection dates	<i>As agreed to in the PPA.</i>
8. Proposed revisions to the schedule of compliance inspections	<i>As negotiated and approved.</i>
9. Copies of inspection reports and transmittal letters of	<i>Upon request by EPA.</i>

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inspection reports for facilities authorized to discharge under the IPDES program (majors and minors)	
10. Input of required data in ICIS-NPDES to enable EPA to prepare narrative reports for major permittees, as specified in 40 CFR §123.45(a)	<b><i>Within 14 days of receipt of report by permitting authority.</i></b>
11. Input of required data in ICIS-NPDES to enable EPA to prepare a statistical summary report on the number of major permittees with two or more violations, as specified in 40 CFR §123.45(b)	<b><i>Concurrent with the NPDES noncompliance reports (NNCR).</i></b>
12. Input of required data in ICIS-NPDES to enable EPA to prepare a statistical summary report on all non-major dischargers listing the number of instances noncompliance, enforcement actions, and extensions of compliance deadlines, as specified in 40 CFR §123.45(c)	<b><i>Annually, by November 30.</i></b>
13. Input of required data in ICIS-NPDES to enable EPA to prepare statistical information not otherwise included above (e.g., quarterly, semi-annual and annual reports)	<b><i>In accordance with 40 CFR 123.45.</i></b>
14. Copies of all enforcement actions ranging from warning letters or Notices of Violations to administrative and judicial actions for major and non-major facilities	<b><i>Upon request by EPA.</i></b>
15. Copies of the correspondence to carry out the Pretreatment Program, including Categorical pretreatment determinations; Initial removal credit determinations; Initial determinations on pretreatment FDF; and Net gross	<b><i>Upon issuance.</i></b>
16. When IDEQ is the control authority, pretreatment program approvals or modifications, copies of inspection reports of SIUs, reporting results from SIUs, noted SIU violations, and enforcement action against SIUs	<b><i>Upon request by EPA.</i></b>
17. Identification of any revisions to the IPDES Program necessary to preserve compliance with new or revised federal NPDES Program requirements and a timetable for completing such revisions	<b><i>Annually with the PPA.</i></b>
18. Notification of any State agency, legislative, or court action that may affect the IPDES program	<b><i>Within 10 days of when IDEQ becomes aware.</i></b>
19. Copies of court decisions/actions affecting the permit issuance, compliance, and the State enforcement process	<b><i>Within 15 days of receipt by IDEQ.</i></b>
20. Information of any situation posing a substantial endangerment to the health, welfare, or the environment resulting from the actual or threatened direct or indirect discharge of pollutants into waters of the United States	<b><i>Immediately.</i></b>

**B. EPA to IDEQ**

EPA will provide the State with all of the following documents according to the timelines provided in the table below. Documents and other program information shall be transmitted electronically to the maximum extent possible.

1. Notification of citizen complaints	<i>Upon receipt.</i>
2. Draft and final or revised EPA regulations that affect NPDES programs	<i>Upon issuance.</i>
3. Draft and final or revised EPA guidance related to NPDES program implementation	<i>Upon issuance.</i>
4. Copies of information pertaining to dischargers EPA retains jurisdiction over	<i>When received from applicant or permit and/or public notice issued by EPA.</i>
5. Other information related to permits under EPA jurisdiction	<i>Upon request.</i>
6. EPA will discuss the inspections it intends to conduct independently	<i>Annually with the PPA.</i>
7. EPA will discuss the proposed revisions to the schedule of compliance inspections	<i>As revisions occur.</i>
8. Copies of approval of a Pretreatment Program for a municipality under its jurisdiction	<i>As issued.</i>
9. Notification to IDEQ of observed deficiencies resulting from EPA oversight inspections	<i>As performed.</i>
10. Copies of all inspection reports and transmittal letters for NPDES facilities, excluding those that EPA considers enforcement confidential	<i>Upon request.</i>
11. Copies of all final enforcement actions against violators, including warning letters, notices of violation, administrative orders, judicial filings, and settlements	<i>As issued.</i>
12. Notification of the commencement of federal civil enforcement actions	<i>Immediately.</i>
13. Draft and final reviews of the IPDES Program, including the Pretreatment and Sewage Sludge Programs	<i>As performed.</i>
14. Copies of court decisions/actions affecting the permit issuance, compliance, or enforcement processes	<i>Within 15 days of receipt by EPA.</i>

**C. Transfer of Files from EPA to IDEQ upon Subsequent Program Approval**

Upon approval of any subsequent IPDES Program modification for additional IPDES Program coverage by the RA, EPA will immediately deliver to IDEQ all project files for pending permit applications proposed for issuance/reissuance. Project files will include all relevant information including but not limited to, application forms, correspondence, draft permits, public notices, fact sheets, statements of basis, and any other documents relating to the pending permit. EPA will ensure all project files are complete prior to delivery to IDEQ. Delivery of project files shall be in electronic form to the maximum extent possible.

EPA will deliver files for all other permits to IDEQ in accordance with the transfer schedule identified in Appendix A of this MOA. Files will contain all relevant information pertaining to the issuance of the permit as well as copies of all DMRs, all compliance reports, all enforcement actions, and other pertinent information and correspondence. EPA will ensure all files are complete prior to delivery to IDEQ. Delivery of project files shall be in electronic form to the maximum extent possible.

#### **D. Electronic Reporting and Data Sharing Requirements**

The IDEQ Director and the RA hereby agree that to maintain a high level of communication, cooperation and coordination between IDEQ and EPA for the successful and effective administration of the IPDES program, exchange and submittal of information should be encouraged electronically when possible and appropriate. Therefore IDEQ will:

1. Electronically transfer the minimum set of NPDES data to EPA (see appendix A to part 127) on a timely schedule (i.e., within 40 days of the completed activity or within 40 days of the receipt of a report from an NPDES permittee, facility, or entity). For example, the data regarding IDEQ inspection of an NPDES-regulated entity that is finalized by the state on October 5th will be electronically transferred to EPA no later than November 14th of that same year (e.g., 40 days after October 5th). The minimum set of NPDES data includes:
  - a. The “Core NPDES Permitting, Compliance, And Enforcement Data [40 CFR parts 122, 123, 403, 503]” as identified as NPDES Data Group 1 in Tables 1 and 2 in appendix A to part 127.
  - b. NPDES information (NPDES Data Groups 2 through 10 in Tables 1 and 2 in appendix A to part 127) from NPDES permittees, facilities, and entities subject to part 127 [see 40 CFR §127.1(a)] where IDEQ is the initial recipient [as identified in 40 CFR §127.27, and as defined in 40 CFR §127.2(b)]. This includes NPDES information from NPDES permittees, facilities, and entities that received a waiver from electronic reporting (see 40 CFR §127.15).

Specific data elements that are required to be submitted electronically to EPA by IDEQ are identified in appendix A to 40 CFR §127.

2. Use reasonable quality assurance and quality control procedures to ensure the quality of the NPDES information (see 40 CFR §127.22). These electronic data transfers to EPA will be timely, accurate, complete, and consistent (see 40 CFR §127.23) and compliant with EPA’s Cross-Media Electronic Reporting Rule (40 CFR §3).
3. Follow the procedure for determining the initial recipient of NPDES program data (see 40 CFR §127.27). An authorized NPDES program can elect to be the initial recipient for one or more NPDES Data Groups. In general, the process for identifying the initial recipient is provided below.

- a. IDEQ elects to have EPA be the initial recipient for the following NPDES data groups:

- Discharge Monitoring Reports.

IDEQ may at a later date seek EPA approval to change the initial recipient status for one or all of the NPDES data groups from EPA to the IDEQ. To make this switch, the IDEQ will send a request to EPA. This request will identify the specific NPDES data groups for which the IDEQ would like to be the initial recipient of electronic NPDES information, a description of how its data system will be compliant with 40 CFR parts 3 and 127, and the date or dates when the IDEQ will be ready to start receiving this information. After EPA approval of the request, EPA will update the initial recipient list and will publish the revised initial recipient listing on its Web site and in the Federal Register.

- b. IDEQ elects to be the initial recipient for the following NPDES data groups:

- Core NPDES Permitting, Compliance, and Enforcement Data
- General Permit Reports (NOIs, NOTs, NOEs, and LEWs)
- Sewage Sludge/Biosolids Annual Program Reports
- Concentrated Animal Feeding Operations Annual Program Reports
- Municipal Separate Storm Sewer System Program Reports
- Pretreatment Program Reports
- Significant Industrial User Compliance Reports in Municipalities without Approved Pretreatment Programs
- Sewer Overflow Event Reports
- CWA §316(b) Annual Reports

IDEQ may at a later date request that EPA become the initial recipient for one or all of the NPDES data groups. To make this switch, the IDEQ will send a request to EPA. After coordination with the IDEQ, EPA will update the initial recipient list and will publish the revised initial recipient listing on its Web site and in the Federal Register.

If IDEQ fails to maintain all the requirements in part 3 and 127 or does not consistently maintain timely data transfers, EPA will become the initial recipient of electronic NPDES information from NPDES-regulated entities [See 40 CFR §127.27(d)]. After coordination with the IDEQ, EPA will update the initial recipient list and will publish the revised initial recipient listing on its Web site and in the Federal Register.

4. Review temporary or permanent waiver requests submitted under 40 CFR §127.15 and either approve or reject these requests within 120 days. IDEQ will provide the permittee, facility, or entity with notice of the approval or rejection of their temporary or permanent waiver request from electronic reporting. IDEQ will electronically transfer to EPA the minimum set of NPDES data (as specified in appendix A to 40 CFR §127) that they receive from permittees, facilities, or entities with a waiver from electronic reporting in accordance with 40 CFR §127 (including 40 CFR §127.22 and

§127.23) and 40 CFR part 3. IDEQ will submit an updated waiver approval process to EPA every five years. EPA will inform IDEQ if the waiver approval process is adequate.

5. Provide notice, individually or through means of mass communication, when episodic waivers from electronic reporting are granted by the IDEQ, the facilities and entities that may use the episodic waiver, the likely duration of the episodic waiver, and any other directions regarding how facilities and entities should provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the IDEQ or the initial recipient. No waiver request from the NPDES permittee, facility or entity is required to obtain an episodic waiver from electronic reporting. The IDEQ or initial recipient granting the episodic waiver will determine whether to allow facilities and entities to delay their electronic submissions for a short time (i.e., no more than 40 days) or to send hardcopy (paper) submissions.
6. Update its electronic data system to electronically collect the minimum set of NPDES data and facilitate compliance with 40 CFR §127 (including 40 CFR §§127.22 and 127.23) and 40 CFR part 3. The IDEQ's electronic data system will facilitate electronic reporting from NPDES permittees, facilities, and entities subject to NPDES electronic reporting requirements [see 40 CFR §127.1(a)] in compliance with the start dates in Table 1 in 40 CFR §127.16(a). IDEQ may elect to use EPA's national NPDES data system (and related Internet services and applications) for their electronic data system.
7. Will share any information obtained or used in the administration of the NPDES program with EPA upon request without restriction in compliance with 40 CFR §123.41(a). Will submit any claims of confidentiality to EPA when providing information under this section. Any information obtained from IDEQ and subject to a claim of confidentiality will be treated in compliance with the regulations in 40 CFR part 2. If EPA obtains information from IDEQ which is not claimed to be confidential, EPA may make that information available to the public without further notice.
8. Issue permits with conditions requiring compliance with the electronic reporting requirements in 40 CFR part 3, 40 CFR §122.22 and part 127.

## **XI. Review of New or Revised State Rules, Regulations or Statutes**

In accordance with 40 CFR §§123.62(a), 403.10 and/or 503, either EPA or IDEQ may initiate a revision to the IPDES program, including pretreatment and sewage sludge. IDEQ and EPA will keep each other fully informed of any proposed modifications to its statutory or regulatory authority, forms, procedures, or priorities. EPA and IDEQ will work together to ensure the IPDES program is consistent with any applicable regulatory revisions, including any final regulations governing the electronic submission of NPDES information from states or regulated facilities.

IDEQ will ensure that any proposed revision to the IPDES Program is submitted to EPA for approval pursuant to 40 CFR §123.62(b).

### **A. Revisions to IPDES Program**

Revision of IDEQ's program will be accomplished in conformance with 40 CFR §123.62(b) and (e) as follows:

1. The IDEQ Director will submit to the RA a modified program description, an Attorney General's Statement, Memorandum of Agreement, or any such other documents, as EPA determines to be necessary under the circumstances after consultation with IDEQ. EPA will determine if the proposed revision is substantial or non-substantial.
2. If EPA determines that the proposed revision is substantial, EPA will issue public notice of the proposed revision and provide an opportunity to comment for a period of at least thirty (30) calendar days. The public notice will also provide an opportunity to the public to request a public hearing.
3. The RA will approve or disapprove program revisions based on the requirements of 40 CFR Part 123 and of the CWA. Notice of approval of a substantial change will be published in the Federal Register. A program revision will become effective upon the approval of the RA.
4. If EPA determines the revision to be non-substantial, notice of approval may be given by letter from the RA to the IDEQ Director.
5. In order to conform with new or revised promulgations of federal regulations, IDEQ must revise its program within two (2) years under 40 CFR §123.62(e) since a legislative process must be completed for any such revision to become final.
6. IDEQ will provide proposed revisions to EPA in a timely manner in consideration of the date IDEQ needs to have EPA's review completed. After conducting a preliminary review of IDEQ's proposed revision, EPA will provide to IDEQ an estimated schedule for completing its review. The estimated review schedule will depend on the complexity of the proposed revision. EPA will, thereafter, provide IDEQ with quarterly updates, as appropriate, regarding the status of its review.

### **B. Transfer to another state agency**

IDEQ must notify EPA whenever it proposes to transfer all or any part of any program from IDEQ to any other State agency, and must identify any new division of responsibilities among the agencies involved. The new agency is not authorized to administer the program until given approval by the RA under 40 CFR §123.62(b) and (c).

### **C. EPA Requests**

Whenever the RA has reason to believe that circumstances have changed with respect to the IPDES program, the RA may request, and IDEQ will provide, a supplemental Attorney General's Statement, program description, or other documents or information as are necessary and as provided under 40 CFR §123.62(d).

## **XII. Compliance and Evaluation Program**

### **A. Implementation of Schedules and Conditions**

As provided by 40 CFR §123.26(a), IDEQ will track the submission of all documents required pursuant to permit conditions or schedules, or any applicable administrative or judicial enforcement actions. In order to determine a discharger's compliance status, IDEQ will conduct a timely and substantive review of all such submitted documents and consider enforcement action in the event a required document is not submitted in a timely manner, is otherwise inadequate, or identifies noncompliance.

### **B. Compliance Monitoring and Evaluation**

IDEQ agrees to maintain an effective compliance monitoring and evaluation program. For purposes of this MOA, the term "compliance monitoring and evaluation" will refer to all efforts to assess whether NPDES regulated entities are in compliance with laws and rules constituting the IPDES program, including any permit condition or limitation, any compliance schedule, any pretreatment standard or requirement, or any previous administrative or judicial enforcement action.

1. Discharges endangering public health will receive immediate and paramount attention.
2. IDEQ will operate a timely and effective compliance monitoring system to assess and track compliance by dischargers with their permit conditions (e.g., effluent limits and compliance schedules) and any applicable enforcement action.
3. IDEQ will directly enter or upload the compliance monitoring and evaluation data into the NPDES national database on a schedule as required in national policy, annual PPA, or in any applicable regulations governing submission of NPDES information from regulated entities or States. The current national policy is the EPA 1985 PCS Policy (as amended) and the Integrated Compliance Information System (ICIS) Addendum to the Permit Compliance System (PCS) Policy.
4. When EPA promulgates new reporting data requirements, IDEQ will adhere to those requirements and ensure that required IPDES information is provided to EPA in a timely, accurate and complete manner.
5. Compliance monitoring will focus on the most important IPDES point sources of water quality impairment and the most serious violations. EPA's *NPDES Issuance of Clean Water Action NPDES Compliance Monitoring Strategy* (July 2014), hereafter NPDES CMS, specifies inspection frequency goals for the NPDES program and available flexibilities that EPA and states may use in negotiating inspection commitments. The negotiated PPA and/or approved annual IPDES Compliance Monitoring Plan (CMP) should be based on these goals and guidance.
6. All compliance monitoring and evaluation activities will be undertaken in such a manner that will lead to timely, appropriate and effective follow-up response (e.g., informal action or formal enforcement actions consistent with applicable Enforcement Response Policies (ERP)).
7. IDEQ will maintain complete records of all material relating to the compliance status of dischargers within IDEQ's jurisdiction, including, but not limited to inspection reports, Compliance Schedule Reports, annual reports, noncompliance reports,

inspection/compliance letters and other formal correspondence, any other reports/plans that permittees may be required to submit under the terms and conditions of a IPDES permit or an approved pretreatment program (when applicable), and documents related to any administrative or judicial enforcement action. Records may be paper or electronic and will be maintained according to applicable federal records schedules.

### **C. Compliance Review**

IDEQ will require all IPDES permittees to use NetDMR or submit a request consistent with 40 CFR §127 for a temporary waiver from electronic reporting requirements. Pursuant to 40 CFR §123.26, IDEQ will conduct timely and substantive reviews and maintain complete records of all material relating to the compliance status of a IPDES permittee, including Compliance Schedule Reports, annual reports, inspection reports, noncompliance reports, compliance inspection letters, enforcement documents, and any other reports that a permittee may be required to submit under the terms and conditions of a IPDES permit, state certification of an NPDES permit, approved Pretreatment Program (when applicable), state administrative action, or state court order. IDEQ will evaluate a permittee's compliance status based on the review of material submitted or required by the permittee's IPDES permit, as well as results of a site inspection, if conducted. The evaluation will take into account frequency, severity, circumstances, and analytical error to determine the appropriate enforcement response to noncompliance. IDEQ will provide periodic non-compliance reports to EPA.

1. For all major dischargers and those other dischargers or types of dischargers identified in the annual PPA or approved annual IPDES CMP, IDEQ will ensure that monitoring and evaluation data are entered into ICIS-NPDES via the central data exchange web flow (CDX). Data entry and accuracy rates will be as established in EPA's current national data system policy and guidance or in any applicable regulations governing submission of NPDES information from regulated entities or States. The state must provide information necessary to determine if:
  - a. any required self-monitoring reports (including DMRs or other reports required to be submitted pursuant to a permit or an applicable administrative or judicial enforcement action) are submitted on time;
  - b. the submitted reports are complete; and
  - c. the permit conditions (e.g., effluent limits and compliance schedules) or requirements of an applicable administrative or judicial enforcement action are met.
2. IDEQ's timely and substantive review of all such reports received and all independently gathered information to evaluate the discharger's compliance status will be uniform and consistent with the Enforcement Management System (EMS) as referenced in section XIII, or in any subsequent national guidance and policy issued by EPA.
3. DMR forms or electronic versions thereof, for any monitoring data required by an IPDES permit will be consistent with the requirements of 40 CFR §122.2.
4. Pursuant to 40 CFR §122.2, EPA may object in writing to deficiencies in reporting forms used by permittees or IDEQ. IDEQ will ensure that deficiencies identified by EPA are adequately addressed.
5. IDEQ will report single-event violations (SEV) information from inspections consistent with applicable federal policy or regulation.

6. For all dischargers subject to regulation under §402 of the CWA, IDEQ will submit noncompliance and program reports as required by 40 CFR §123.45, or other applicable federal regulations.
7. EPA and IDEQ will utilize EPA's Enforcement and Compliance History Online (ECHO) CWA Tracker to facilitate discussions regarding facility-specific noncompliance.
8. EPA will, through the State Review Framework, review ICIS-NPDES data against source documents (e.g., DMRs, inspection records, enforcement actions, etc.) to verify the accuracy of the ICIS-NPDES data and NPDES noncompliance reports.
9. In accordance with 40 CFR §123.26(b)(4), IDEQ will maintain procedures for receiving and ensuring proper consideration of information about alleged violations submitted by the public.
10. IDEQ will submit the necessary data for EPA's NPDES Noncompliance Report (40 CFR 123.45) and other applicable federal regulations. The minimum set of NPDES data is listed in appendix A to 40 CFR 127.
11. EPA and IDEQ will modify this MOA to conform to any applicable regulations governing submission of IPDES information from regulated entities or States.
12. EPA will provide IDEQ notification of citizen complaints through a phone call, email message, or copy of the written complaint.
13. IDEQ will make every effort to coordinate and share information with EPA Criminal Investigation Division.

#### **D. Facility Compliance Inspections**

IDEQ will conduct field activities to determine the status of compliance with permit, pretreatment and sewage sludge requirements, including sampling and non-sampling inspections. The different types of compliance inspections will be conducted in accordance with EPA's most recent NPDES Compliance Inspection Manual (or Idaho equivalent), 40 CFR §123.26(d), and EPA's most recent Clean Water Act CMS (or Idaho equivalent), and all current grant agreements.

1. General Procedures: In accordance with the requirements contained in 40 CFR §123.26, IDEQ will maintain and implement an inspection and surveillance program to determine the compliance status of dischargers independent of information supplied by dischargers.
  - a. IDEQ will have procedures for receipt, evaluation, retention, and investigation for possible enforcement of all notices and reports required of regulated entities.
  - b. IDEQ will have procedures to receive information from the public.
  - c. Information will be made available to the public about inspections and violations, unless exempt from disclosure under Idaho law.
  - d. As provided in Idaho law, IDEQ agents conducting compliance evaluations will have the authority to enter premises subject to regulation. Inspections will be conducted in such a way that will produce admissible evidence in an enforcement proceeding or in court.
  - e. IDEQ and EPA will develop and submit as part of the PPA and in accordance with the IPDES CMS, an inspection plan (Annual Plan of Inspections) of individual dischargers proposed to be the subject of compliance audits and inspections for the coming year (January through December).

- f. In recognition of changing priorities and circumstances during the year, EPA and IDEQ mutually agree to amend the inspection plan as needed.
  - g. Unless otherwise agreed to by EPA in writing, IDEQ will conduct the agreed upon compliance inspections outlined in the inspection plan.
  - h. IDEQ will give EPA adequate notice and opportunity to participate with the State in its inspection activities, to the extent practicable.
  - i. EPA or IDEQ may determine that additional inspections are necessary to assess compliance.
  - j. If EPA makes a determination that additional inspections are necessary or appropriate, EPA will notify IDEQ of such determination and may perform the inspections alone or jointly with IDEQ or may request that IDEQ conduct those inspections.
  - k. EPA will keep IDEQ fully informed of its plans and the results of any inspections. Pursuant to 40 CFR §123.24(b)(4)(i), EPA will provide IDEQ at least seven (7) calendar days' notice before a joint or independent inspection is conducted. EPA retains the ability to conduct inspections without notice.
2. Reporting Schedules: IDEQ will transmit inspection information to ICIS-NPDES. It will do so in accordance with and on a schedule established in the PPA. IDEQ will ensure data entry of required inspection information, including Single Event Violations of the CWA's NPDES requirements that are documented during a compliance inspection, reported by the facility, or determined through other compliance monitoring methods, as well as violations detected that will cause the facility to be in significant non-compliance (SNC).
3. Inspections: IDEQ and EPA will, as part of the PPA and IPDES CMS, define the scope of compliance inspections to be undertaken by IDEQ and any inspections EPA intends to undertake. For the purposes of this agreement, a "compliance inspection" includes, but is not limited to: a compliance evaluation, compliance sampling, performance audit, biomonitoring, toxic sampling, diagnostic, reconnaissance, follow-up, construction site and industrial facility storm water, sanitary sewer overflow, CAFO inspections, audits, aerial photography, case follow up, sewage sludge and pretreatment program inspections. In addition:
- a. IDEQ encourages EPA participation in its scheduled inspection activities and will provide adequate notice and opportunity to EPA.
  - b. As agreed to in the PPA, IDEQ will inform EPA of the inspections it has scheduled for the coming year. IDEQ will update ICIS-NPDES with inspection and enforcement results for inspections IDEQ conducts.
  - c. As part of the PPA, EPA will set forth the inspections it intends to undertake, if any. EPA retains the right to perform inspections of any permittee at any time. Generally, EPA will notify IDEQ 7 days prior to an inspection to provide an opportunity to participate and will otherwise keep the State informed of its plans and results. For inspections conducted by EPA, or enforcement actions taken by EPA, EPA will input the data into ICS-NPDES and provide electronically the inspection and enforcement information to IDEQ to enter the data into the IDEQ Compliance, Reporting, Inspection, and Permitting System (CRIPS) database. EPA retains the ability to conduct inspections without notice.

- d. All inspection reports will be thoroughly reviewed by IDEQ to determine what, if any, enforcement action will be initiated. IDEQ will forward copies of inspection reports to EPA upon request. Where an audit or inspection is conducted solely by EPA, a copy of the audit or inspection report will be forwarded to IDEQ within ninety (90) calendar days after the inspection, except for those reports which are enforcement confidential.
  - e. Any changes or additions to the definition of a “compliance inspection” will be incorporated as appropriate into the commitments of an approved negotiated CWA CMS.
4. Inspection Schedules: IDEQ and EPA will develop targets in the PPA and IPDES annual plan of inspections to address the most significant water quality problems and most serious noncompliance. Plans will include a list of the compliance inspections to be performed annually by IDEQ and EPA. The targets may be modified with the concurrence of IDEQ and EPA. IDEQ may revise inspection schedules in the future in response to revisions made to the IPDES CMS and in accordance with Federal and State program direction and priorities. EPA and IDEQ agree that inspection schedules are enforcement confidential. Both agencies agree to maintain their confidentiality of inspection schedules, including: dates, times, locations, and personnel to the extent allowed under available legal authorities and shall not disclose impending unannounced inspections to any regulated entity. Both agencies agree to inform each other of any requests for their disclosure, and to coordinate with each other in responding to any such requests. EPA and IDEQ retain the right to withhold its respective inspection schedules in the event of any disclosure.

## **E. Compliance Tracking**

In accordance with the IPDES Program Description, this agreement, and as required in 40 CFR §123.26, IDEQ must operate a compliance tracking system so that staff will be capable of determining that:

1. Self-monitoring reports required by permit and/or pretreatment management requirements are submitted in a timely manner;
2. Submitted reports are complete and accurate; and
3. Permit conditions and/or pretreatment management requirements (when applicable) are met

IDEQ's compliance program will track the submittal of all reports on date-related permit conditions or other schedules in effect pursuant to the permit (e.g., required reports, Notices of Violation, Administrative Orders, Consent Agreements, and court orders). IDEQ must conduct a timely and substantive review of all date-related permit conditions and reports and consider possible enforcement actions for failure to submit required reports.

EPA will be responsible to enter data into EPA's national ICIS-NPDES database for the facilities it retains authority over (e.g., facilities in Indian Country).

## **F. Enforcement Management System**

Within one hundred and twenty (120) calendar days of the execution of this MOA or as otherwise established in the PPA and IPDES CMS, IDEQ agrees to submit to EPA for review and comment a current Enforcement Management System (EMS). The EMS is a document outlining procedures, policies, timelines, etc., to be used by IDEQ in conducting official business (e.g., inspections, tracking and evaluating compliance enforcement actions, assessment of penalties, etc.). Such procedures and policies with respect to compliance and enforcement should take into consideration EPA's current NPDES national enforcement guidance and policies and should include application of criteria for screening the significance of violations, procedures and time frames for selecting appropriate initial and follow-up response options to identified violations, and procedures for maintaining a chronological summary of all violations. IDEQ agrees to implement its EMS. IDEQ agrees to submit any changes to the IPDES EMS to EPA for review and comment upon request.

## **G. Miscellaneous Compliance Activities**

1. Information Requests: Whenever EPA or IDEQ requests information from the other concerning a specific discharger and the requested information is not available from the files, that information will be researched and provided to the requesting agency within a reasonable time.
2. Laboratory Quality Assurance: IDEQ will plan, initiate, and maintain a program as provided in the IPDES CMS to ensure that laboratories working for IDEQ's permitted dischargers follow approved quality assurance protocols.
3. Emergency Pollution Incidents: EPA and IDEQ agree to immediately notify each other by telephone or through a mutually agreed upon emergency response protocol, upon receipt by EPA or IDEQ, of any information concerning a situation which in its opinion poses an actual or threatened pollution incident that may result in endangerment to human health or the environment. IDEQ agrees to ensure that all potentially affected downstream drinking water intake facilities are notified of the situation (including notification across state lines when applicable) so that they can take appropriate actions to minimize a risk to the public.
4. Citizen Complaint and Follow-up: IDEQ must maintain procedures to receive and ensure proper consideration of information submitted by the public about alleged IPDES Program violations and maintain a system to track and evaluate the complaints received from the public (40 CFR §123.26(b)(4)). Public complaints received by EPA will be referred to IDEQ as soon as reasonably possible. IDEQ must maintain an electronic record of the initial contact, assignment, investigation, and final disposition of IPDES-related complaints received from the public. This record will be made available to EPA and the public as allowed under applicable state and federal law. Complaints received by IDEQ or referred to IDEQ by EPA under anonymity or confidentiality will be handled in accordance with the Idaho Public Records Act Chapter 1 Title 74 Idaho Code. EPA and IDEQ agree to closely coordinate follow-up of such complaints. IDEQ will maintain provisions providing for public participation in enforcement actions consistent with the requirements of 40 CFR §123.27(d), found at IDAPA 58.01.25.500.04.

### **XIII. Enforcement**

#### **A. Timely and Appropriate Enforcement**

1. The federal regulations at 40 CFR §123.27 establish the minimum requirements (i.e., remedies, penalties/fines, public participation) for enforcement authority for a State administering the NPDES program.
2. EPA and IPDES enforcement program guidance and policies describe agency goals and expectations for what constitutes timely and appropriate enforcement action. [*EPA's 1989 "NPDES Enforcement Management System (EMS)" and "Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations" (May 29, 2008)*]
3. IDEQ is responsible for commencing and completing timely and appropriate enforcement actions against dischargers in violation of the laws and rules constituting the IPDES program, including any permit conditions or limitations, compliance schedules, pretreatment standards or requirements, or previous administrative or judicial enforcement actions. This responsibility encompasses violations detected through any means including the compliance monitoring activities set forth in this agreement.
4. EPA will consider an IDEQ enforcement action to be timely and appropriate if it:
  - a. Reflects the nature and severity of the violations and the overall degree of noncompliance and results in a return to compliance by the violator (EPA's 1989 EMS and May 29, 2008 "Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations");
  - b. Seeks or imposes, where appropriate, penalties that consider the factors set forth in §§309(d) and 309(g)(3) of the CWA, meet the requirements of 40 CFR §123.27, and are consistent with IDEQ's or EPA's penalty policy, criteria, and/or procedures;
  - c. Seeks injunctive relief for continuing noncompliance to return the discharger into compliance within a reasonable time frame. The injunctive relief should be accompanied by an appropriate, specified schedule containing interim milestones necessary to measure progress towards the final compliance date and goals;
  - d. Is commenced and completed taking into account the recommendations in the most recent EPA guidance and policy; and
  - e. Is consistent with other provisions of this MOA.
5. IDEQ should pursue compliance and enforcement procedures consistent with EPA's current NPDES guidance and policies. These include, but are not limited to, procedures associated with: violation detection, prioritization of violations (e.g., identification of significant noncompliance or other serious violations), determination of an appropriate initial response, escalation of enforcement in response to continuing noncompliance, provisions for public participation in the enforcement process, documentation of any action taken/not taken and of the return to compliance, and entry of enforcement data into EPA's national data system.
6. Consistent with federal regulations at 40 CFR §123.27(a)(1), IDEQ must have enforcement authority for remedies (e.g., an administrative cease and desist order or the ability to seek a temporary restraining order) to immediately and effectively restrain any person engaging in any unauthorized activity that is endangering or causing damage to public health or the environment. Pursuant to EPA's 1986 NPDES State Program

Guidance (Volume Two), IDEQ agrees to immediately notify EPA of any situation posing a substantial endangerment to health, welfare, or the environment resulting from the actual or threatened direct or indirect discharge of pollutants into waters of the United States. For violations that present imminent and substantial endangerment to the health, safety, or welfare of the public or the environment, IDEQ will take timely and appropriate enforcement action. Such action should be taken as soon as possible after IDEQ or EPA makes a determination that the condition or activity is of a nature, which if not abated, may pose an imminent and substantial endangerment as described by §504 of the CWA.

7. Copies of all enforcement actions (including informal actions, formal actions, and/or penalty actions) issued against all dischargers shall be retained and submitted to EPA upon request pursuant to 40 CFR §123.24(b)(3) and 40 CFR §123.41(a).
8. In accordance with 40 CFR §123.24(b)(3) and 40 CFR §123.41(a), IDEQ will retain and allow EPA to review reports, documents, and other information relevant to enforcement of its NPDES program. Examples of relevant information include documentation of: appropriate initial and follow up response and enforcement actions; enforcement actions that clearly define what the discharger is expected to do by a reasonable date certain, including any schedule which contains interim milestones necessary to measure the progress towards final compliance; and any assessment and collection of a civil penalty, when appropriate. Penalty records should include penalty calculations and their rationales.
9. IDEQ will maintain provisions providing for public participation in enforcement actions consistent with the requirements of 40 CFR §123.27(d) found at IDAPA 58.01.25.500.04.

## **B. Penalty Calculation, Documentation, and Collection**

IDEQ will assess or sue to recover civil penalties and pursue the assessment of criminal fines, as appropriate and in accordance with any applicable Idaho statutes and rules consistent with the federal regulations at 40 CFR §123.27(a), (b), and (c), for noncompliance with the IPDES, pretreatment and/or sewage sludge programs. IDEQ will use EPA's settlement penalty policy and procedures or employ a written policy, criteria, and/or procedures for assessing appropriate penalties in accordance with state statute and rules consistent with the requirements of the CWA.

1. Penalty Calculation: IDEQ will calculate penalties consistent with applicable regulations and IDEQ or EPA policy and guidance (e.g., EPA's 1995 Interim CWA Settlement Penalty Policy).
  - a. EPA's settlement penalty policy recommends that penalty calculations begin with estimating the statutory maximum penalty to determine the potential maximum penalty liability of the discharger.
  - b. Penalty calculations should, at a minimum, consider two components: the economic benefit of noncompliance and an additional appropriate amount reflecting the seriousness of the violations, (i.e., a gravity component).
  - c. IDEQ statutory authority does not specifically include economic benefit as a factor to consider in determining penalties. However, IDEQ believes it is authorized to take economic benefits into account, and therefore IDEQ will make reasonable efforts to calculate economic benefit in order to recover it in negotiations or litigation.

- d. In calculating economic benefit, EPA encourages the use of EPA's Economic Benefit of Noncompliance (BEN) computer model or another reliable methodology, and to document the assumptions it uses and how the assumptions are applied in specific cases.
  - e. EPA expects settlement penalties to be for more than the amount of economic benefit of noncompliance (where it is possible to calculate it) unless the violator demonstrates an inability to pay, a compelling public concern exists, there are litigation-related reasons, or the total amount of economic benefit exceeds Idaho's maximum penalty cap. IDEQ settlement penalties should be above and beyond the costs to violators to return to compliance, as compliance costs are not penalties.
  - f. IDEQ penalty calculations will document the basis for the penalty and the rationale for any penalty adjustments.
  - g. IDEQ will maintain penalty records in the most convenient format for administration of the IPDES programs and accessible to EPA.
  - h. DEQ will utilize EPA's settlement policy until such time as a DEQ equivalent that remains consistent with 40 CFR §123.24(b)(3), 40 CFR §123.41(a), and EPA's 1986 NPDES Program Guidance is developed.
2. Penalty Collection Recommendations:
- a. Collect assessed penalties and document all efforts to collect such penalties.
  - b. Have systems in place for documenting payment of penalties with corresponding documentation in the case files.
  - c. Verify all penalty collections through appropriate documentation, e.g., via cancelled checks, official correspondence, or notes to the case files.
  - d. Do not allow penalty installment payments, except as necessary by a documented inability to pay, and require interest payments on any delayed penalty payment.
  - e. Where a settlement allows for a series of payments, provide documentation for all dates that have passed.

### **C. EPA Actions**

EPA partners with States to enforce environmental statutes and regulations. Once the IDEQ program is approved and fully implemented, IDEQ is principally responsible for compliance and enforcement, and EPA's role is one of oversight and backup to IDEQ. It may be determined between IDEQ and EPA, however, that EPA should assist IDEQ or by itself take enforcement action, as there are many instances where federal resources, expertise, and authorities can be critical to achieving a comprehensive and effective resolution of violations.

Pursuant to §§309(a)(3) and (b) and 402(i) of the CWA, EPA may take direct enforcement action as the Agency deems necessary. EPA will generally consult with and provide IDEQ with advance notice prior to taking a direct federal action. This notice can be written, electronic (email), or by a telephone call. EPA and IDEQ will provide each other, upon request, with copies of any enforcement actions taken. Early and full communication and coordination between EPA and IDEQ, (e.g., early notification of inspections, the basis of and intent for enforcement actions prior to initiation of any action, and other information sharing) is very effective in resolving compliance and enforcement matters. The parties to this agreement recognize that issues of imminent and substantial endangerment and criminal cases may present special circumstances and may not permit the same level of pre-filing coordination.

#### **D. Attorney General Involvement**

IDEQ will establish procedures for routine coordination on enforcement cases between IDEQ and the appropriate legal resources within the State such as the Idaho Attorney General, including notification of proposed enforcement actions and general time frames for actions from case referral to filing.

### **XIV. EPA's Oversight and Enforcement Authority**

In accordance with 40 CFR §123.24(a), this agreement does not restrict or limit EPA's oversight and enforcement authorities under the CWA. Any discussion of EPA or IDEQ roles and responsibilities is intended to guide EPA and IDEQ personnel to effectively administer the NPDES program, but is not meant to make IDEQ the EPA's agent for purposes of enforcement or to restrict or limit EPA's direct enforcement authority under the CWA. Thus, EPA reserves the right to inspect federally regulated permittees or to bring federal enforcement action under the CWA in response to any violation of the CWA.

If EPA determines that IDEQ has not taken timely enforcement action against a violator and/or that the enforcement action has not been appropriate, EPA may proceed with any or all enforcement options available under CWA §309.

EPA will generally notify IDEQ of its pending federal civil enforcement action prior to commencement. Notwithstanding the above, nothing will be construed as limiting EPA's authority under CWA §309 and 40 CFR §503.

Nothing in this agreement restricts or limits EPA criminal investigatory or enforcement authority in any way. EPA reserves the ability to investigate potential criminal violations regardless of the timing or existence of any state action.

This agreement does not create any rights in law or equity for any person not a party to this agreement. Any failure by EPA or IDEQ to follow any provision(s) of this agreement will not affect the validity of any inspection or enforcement action and will not constitute a defense to any violation of the CWA.

IDEQ may request EPA to initiate federal enforcement action when IDEQ has been unable to achieve compliance through state remedies. IDEQ may request EPA to participate in conferences and/or discussions in the pursuit of enforcement actions against a federal facility which may lead to formal filing of an enforcement action by IDEQ against a federal facility. EPA may also initiate direct action if performance reviews demonstrate a lack of state enforcement response to violations.

### **XV. Program Review**

IDEQ and EPA are responsible for ensuring that the IPDES program is consistent with all requirements of the MOA, the PPA, IPDES CMS, the EMS and applicable sections of 40 CFR Parts 122-125, 140, 403 and 503.

To ensure that these requirements are fulfilled, EPA will:

1. Review the information transmitted to IDEQ to ensure that all the requirements of this MOA are met.
2. Meet with IDEQ officials at least annually, as funds allow, to assess data management processes, permit processing, compliance monitoring, and enforcement procedures, including both manual and automated data processing.
3. Periodically examine, in detail, IDEQ files and documentation of selected dischargers to determine whether:
  - a. Permits are processed and issued consistently with federal requirements;
  - b. Capability exists to discover permit violations when they occur;
  - c. IDEQ's compliance reviews are timely;
  - d. Inspections are being conducted properly and coverage is appropriate;
  - e. Violations are identified and reported;
  - f. Data is accurate and entered into ICIS-NPDES in a timely manner;
  - g. IDEQ's enforcement actions are timely, appropriate, and effective;
  - h. Penalties are assessed correctly and collected; and
  - i. IDEQ's public participation policies, practices, and procedures are satisfactory.
4. Implement the State Review Framework and the Permit Quality Review, making reports, findings and recommendations publicly available.
5. Determine the need for (and to hold) public hearings on the IPDES program pursuant to CWA §402(c)(3).

IDEQ will notify the RA and transmit the text of any revision of the IPDES program to EPA for review and approval pursuant to 40 CFR §123.62(b) prior to taking any action. IDEQ will provide drafts of any document modifications to program approval documents (e.g., MOA, Program Description or Attorney General's Statement) for EPA comment and review, and will coordinate with EPA on any proposed revisions. Any action to transfer all or any part of the approved IPDES program to another State agency or instrument will be subject to EPA review and approval pursuant to 40 CFR §123.62(c),

IDEQ will keep EPA fully informed of any program modification, court action, legislation or legislative directive which acts to amend, rescind or appeal any part of its authority to administer the IPDES program or which substantially impairs IDEQ's ability to administer or to otherwise maintain compliance with IPDES program requirements.

If an amendment, rescission, or repeal of any statute, rule, directive, or policy for or by IDEQ occurs for any reason which will substantially impair IDEQ's ability to administer the approved IPDES program, including action of the State Legislature or a court, IDEQ must within ten (10) days of such event notify the RA and must transmit a copy of the text of such revision to the RA.

If there are revisions to the CWA and the regulations that implement it, IDEQ must seek any amendments to its statutes, rules, or program authorization necessary to preserve and maintain compliance with NPDES program requirements within the shortest reasonable time frame, but in no event longer than the time frames set out in 40 CFR §123.62(e). During the negotiation of the grant agreement, IDEQ and EPA must discuss the status and schedule of necessary revisions to the IPDES Program that are required as a result of any changes to the CWA and the regulations promulgated there under, as well as related guidance documents.

## **XVI. Computation of Time**

In accordance with IDAPA 58.01.25.50, in the computation of any period of time prescribed by this MOA, the day from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday, in which case the period extends until the next day which is not a Saturday, Sunday, or legal holiday.

## **XVII. Term and Termination of the MOA**

This MOA will be reviewed periodically by EPA and IDEQ, and revised as appropriate. In no event, will this review occur any less frequently than every four years, starting from the date of execution of this agreement.

Either EPA or IDEQ may, at any time, initiate an action to modify the MOA pursuant to 40 CFR §123.62 and the following guidelines:

1. No modification to this MOA will become effective without the written concurrence of both parties; and
2. Any revisions or modifications to this MOA, must be in writing and must be signed by the IDEQ Director and the RA.

## **XVIII. Approval and Effective Date of the MOA**

This MOA will take effect on the date of execution by the last signatory. If the RA determines that any provision of this MOA does not conform to the requirements of the CWA, to the requirements of 40 CFR Parts 122-125, or to any other applicable federal regulations, the RA will notify IDEQ, in writing, of any proposed revision or modification which must be made to this MOA. Any revision or modification of this MOA will take effect on the date of execution by the last signatory.

DATE

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Name

Director

State of Idaho Department of Environmental  
Quality

DATE

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Name

Regional Administrator  
U.S. Environmental Protection Agency,  
Region 10



## Appendix A. Transfer Schedule for Permitting Authority in Idaho

NPDES program authority will be transferred from EPA to IDES in accordance with the following schedule:

<b>IDEQ Assumes NPDES Permitting and Enforcement Authority</b>	<b>NPDES Program Component</b>
Phase I: At the time of program approval from EPA	Municipal discharges Individual permits for major and minor facilities Pretreatment
Phase II: No later than one(1) year from program approval	Industrial discharges (except storm water) Individual permits for major and minor facilities
Phase III: No later than two (2) years from program approval	General permits (except storm water) Pesticide, CAFO, Aquaculture, Groundwater Remediation, Small Suction Dredging, Drinking water treatment facility, and other applicable general permits
Phase IV: No later than three (3) years from program approval	Storm water program: Construction General Permit Multi-sector General Permit Municipal Separate Storm Sewer Systems (MS4) Sewage Sludge Federal Facilities

This permit transfer schedule may not apply to permits that:

- a. EPA has substantially completed the permitting process or concluded a public review period for, or
- b. EPA has a pending or ongoing EPA enforcement action.

## **Appendix B. EPA's permit issuance schedule and permits on public notice**

Under construction

### **Appendix C. NPDES Policy/Guidance (Partial List)**

The following documents will be consulted when implementing the IPDES Program. Over time, the documents may be updated or, in the case of EPA guidance documents, replaced with guidance documents prepared by IDEQ. The reference documents list will be periodically updated to reflect the most current documents in use to implement the IPDES Program.

<b><i>Idaho Specific Guidance (in development)</i></b>	
	<i>Idaho Pollutant Discharge Elimination System (IPDES) Program, Enforcement Response Guide.</i>
	<i>IPDES Permit Rating Work Sheet.</i>
	<i>Designation Criteria and Selection Process for Small Municipal Separate Storm Sewer Systems.</i>
	<i>Division of Water, Wastewater Risk-Based Inspection Ranking Model.</i>
	<i>Public Participation in the IPDES Permitting Process.</i>
	<i>Permit Writers' Manual / General Permit Development</i>
	<i>Compliance, Inspection, and Enforcement Manual</i>
	<i>Water Quality Pollutant Trading Guidance</i>
	<i>Data Management (including SOPs for holding/reviewing e-reporting, QAPs, CBI, etc.)</i>
	<i>Guidance on Variance Requests, Reviews, Approvals, and Denials</i>
	<i>Idaho Mixing Zone Implementation Guidance</i>
	<i>Idaho Waste Management Guidelines for Confined Feeding Operations (CAFOs)</i>
	<i>Idaho Waste Management Guidelines for Aquaculture Operations</i>
	<i>Antidegradation Guidance</i>
<b><i>EPA Guidance</i></b>	
	<i>Writing NPDES BAT Permits in the Absence of Promulgated Effluent Guidelines. USEPA Office of Enforcement. Washington, DC. June 25, 1980.</i>
	<i>Procedures for Processing Fundamentally Different Factors Variances. USEPA Permits Division. Memorandum. Washington, DC. June 16, 1983.</i>
	<i>Procedures Manual for Reviewing a POTW Pretreatment Program Submission USEPA Office of Water Enforcement and Permits. Washington, DC. October 1983.</i>
	<i>Representative Sampling in NPDES Permits. USEPA Office of Water. Washington, DC. May 6, 1983.</i>
	<i>Policy for the Development of Water Quality-Based Permit Limitations for Toxic Pollutants. USEPA Office of Water. Washington, DC. February 3, 1984.</i>
	<i>Guidance Manual for Preparation and Review of Removal Credit Applications, USEPA Permits Division. (EPA 833-B-85-200) Washington, DC. July 1985.</i>
	<i>Pretreatment Compliance Inspection and Audit Manual for Approval Authorities. USEPA Office of Water Enforcement and Permits. (EPA 833/B-86-100) Washington, DC. July 1986.</i>
	<i>Pretreatment Compliance Monitoring and Enforcement Guidance. USEPA Office of Water Enforcement and Permits. Washington, DC. July 1986.</i>
	<i>Revised Policy Framework for State/EPA Enforcement Agreements, Memorandum from A. James Barnes, Deputy Administrator, August 25, 1986</i>
	<i>National Pollutant Discharge Elimination System State Program Guidance, USEPA, Washington, DC. July 29, 1986, 199 pp.</i>
	<i>New Clean Water Act Civil Penalty Policy. Jensen, Lawrence J. and Courtney M. Price, USEPA Assistant Administrators. Memorandum. Washington, DC. February 11, 1986.</i>

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<i>Permit Writer's Guide to Water Quality-Based Permitting for Toxic Pollutants</i> , USEPA Office of Water. Washington, D.C. February 10, 1987
<i>Best Management Practices (BMPs) in NPDES Permits – Informational Memorandum</i> . USEPA. Memorandum. Washington, DC. August 19, 1988.
<i>Interim Guidance on Implementation of §402(o) Anti-backsliding Rules for Water Quality-Based Permits</i> . USEPA Office of Water Enforcement and Permits. Washington, DC. 1988/1989.
<i>Penalty Calculations for POTW Failure to Implement an Approved Pretreatment Program</i> . USEPA Office of Water. Washington, DC. December 22, 1988.
<i>FY 1990 Guidance for Reporting and Evaluating POTW Noncompliance with Pretreatment Implementation Requirements</i> . Memorandum. USEPA Office of Water Enforcement and Permits. Washington, DC. September 27, 1989.
<i>Enforcement Management System, National Pollutant Discharge Elimination System (Clean Water Act)</i> . USEPA. Office of Water. Washington, DC. 1989.
<i>Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations (TREs)</i> , The Chemicals and Chemical Product Branch Risk Reduction Engineering Laboratory. (EPA-600/2-88/070). Contract No. 68-03-3248. Fava, J.A, D. Lindsay, W.H. Clement, et al.) Cincinnati, Ohio. April 1989.
<i>Industrial User Permitting Guidance Manual</i> . USEPA Office of Water. Washington, DC. September 1989.
<i>BEN User's Manual</i> , USEPA. Washington, DC. June, 1990. 201 pp
<i>Technical Support Document for Water Quality-based Toxics Control</i> . USEPA Office of Water. (EPA/505/2-90-001) Washington, DC. March 1991.
<i>Control Authority Pretreatment Audit Checklist and Instructions</i> . USEPA. Office of Wastewater Enforcement and Compliance. Contract No. 68-C8-0066, WA No. C-3-4 (P). Washington, DC. May, 1992.
<i>Guidance Manual for Developing Best Management Practices (BMP)</i> , USEPA. Office of Water. (EPA 833-B-93-004) October 1993.
<i>Industrial User Inspection and Sampling Manual for POTWs</i> . USEPA Office of Wastewater Enforcement and Compliance. Washington, DC. April 1994.
<i>Water Quality Standards Handbook: Second Edition</i> . USEPA Office of Water. (EPA 823-B-94-005a) Washington, DC. August 1994.
<i>Whole Effluent Toxicity (WET) Control Policy</i> . USEPA Office of Water. (EPA 833-B-94-002) Washington, DC. July 1994.
<i>Revision of NPDES Significant Noncompliance (SNC) Criteria to Address Violations of Nonmonthly Average Limits</i> . USEPA. Office of Enforcement and Compliance Assurance. Memorandum. Washington, DC. September 21, 1995.
<i>Interim Clean Water Act Settlement Penalty Policy</i> . USEPA. Washington, DC. March 1, 1995.
September 21, 1995 Memo from Steve Herman Extending SNC definition for non-monthly average limits (6pp, PDF, 334KB)
<i>Interim Guidance for Performance-Based Reduction of NPDES Permit Monitoring Frequencies</i> . USEPA Office of Water, Office of Enforcement and Compliance Assurance. Memorandum. Washington, DC. April 1996.
<i>EPA Region 10 Guidance on Water Quality-Based Effluent Limits Below Analytical Detection / Quantitation Level</i> . USEPA. Region 10. Seattle. March 22, 1996.

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<i>Interpretive Policy Memorandum on Reapplication Requirements for Municipal Separate Storm Sewer Systems.</i> USEPA. Federal Register / Vol. 61, No. 155. FRL-5533-7. May 7, 1996.
<i>U.S. EPA NPDES Permit Writers' Manual.</i> USEPA Office of Water. (EPA-833-B-96-003) Washington, DC. December 1996.
<i>Enforcement and Compliance Strategy.</i> USEPA. Region 10. Seattle, WA. March, 1997.
<i>EPA /State Agency Agreement on Compliance Assurance Principles.</i> EPA Region 10, Alaska, Idaho, Oregon, and Washington, Participants. Seattle. May, 1997.
<i>Compliance Assurance Evaluation Principles.</i> USEPA. Memorandum. Seattle, WA. March 24, 1998.
<i>Issuance of Final Supplemental Environmental Projects Policy.</i> Herman, Steven A. USEPA Assistant Administrator. Memorandum. Washington, DC. April 10, 1998.
<i>Wastewater Management.</i> (EPA/833B-99/002) Washington, DC. August 1999.
<i>Compliance and Enforcement Strategy Addressing Combined Sewer Overflows and Sanitary Sewer Overflows.</i> USEPA. Memorandum. Washington, DC. April, 27, 2000.
<i>ICIS-NPDES Single Event Violation Guide,</i> USEPA, Washington DC. October 15, 2008, 31 pp.
<i>Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations.</i> USEPA. FRL 6576-3. May 11, 2000.
<i>Clarifications Regarding Toxicity Reduction and Identification Evaluations in National Pollutant Discharge Elimination System Program.</i> USEPA. Region 10. Seattle. March, 2001.
<i>EPA Requirements for Quality Assurance Project Plans.</i> USEPA. Office of Environmental Information. (EPA QA/R-5, EPA/240/B-01/003) Washington, DC. March 2001.
<i>Guidance for Quality Assurance Project Plans.</i> USEPA. (EPA QA/G-5, EPA/240/R-02/009) December 2002.
<i>Guidelines Establishing Test Procedures for the Analysis of Pollutants; Whole Effluent Toxicity Test Methods.</i> Final Rule. Federal Register/Vol. 67 69953. November 19, 2002.
<i>Compliance and Enforcement National Priority: Clean Water Act, Wet Weather, Concentrated Animal Feeding Operations.</i> USEPA. November 2004.
<i>NPDES Compliance Inspection Manual.</i> USEPA Office of Enforcement and Compliance Assurance. (EPA 305-X-03-004) Washington, DC. July 2004.
<i>Local Limits Development Guidance,</i> USEPA Office of Wastewater Management. (EPA 833-R-04-002A) Washington, DC. July 2004.
<i>Pacific Northwest Water Quality Data Exchange: Trading Partner Agreement.</i> State of Oregon Department of Environmental Quality. Prepared by Business Systems Development Management Services Division. Portland, Oregon. December 28, 2004.
<i>FY 2007 Update to the National Program Manager's Guidance.</i> USEPA. Office of Enforcement and Compliance Assurance Washington, DC. April 2006.
<i>Guidance on NPDES Wet Weather and CAFO Inspection Reporting Changes, Other NPDES Inspection Reporting Changes, and PCS Data Entry and Software Changes.</i> USEPA. Office of Enforcement and Compliance. January 2006.
<i>Revisions to the Recently Issued Final Guidance on the Reporting of CWA NPDES Wet Weather and CAFO Inspections to PDS and Changes to 3560-3 Water Compliance Inspection Report Form</i> USEPA. Memorandum. Washington, D.C. April 11, 2006

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<i>Transmittal of Final Guidance on the Reporting of CWA NPDES to PCS, Other Reporting Changes to PCS, and Changes to the 3560-3 Water Compliance Inspection Report Form, and EPA Responses to Comments Received on the Draft Guidance.</i> USEPA Office of Water. Memorandum. Washington, DC. January 17, 2006.
<i>Inspection Frequency Guidance for the Core Program and Wet Weather Sources.</i> USEPA. April 2007 – draft pending.
<i>Compliance Schedules for Water Quality-Based Effluent Limits in NPDES Permits.</i> USEPA. Memorandum. Washington, D.C. May 10, 2007.
<i>Interim Significant Noncompliance Policy for CWA Violations Associated with CSOs, SSOs, CAFOs, and Storm Water Point Sources (i.e. Interim Wet Weather SNC Policy)</i> (October 2007) (When finalized for use by states.)
<i>NPDES Compliance Monitoring Strategy.</i> USEPA Office of Enforcement and Compliance Assurance. Memorandum. Washington, DC. October 17, 2007.
<i>Clarification of NPDES EMS Guidance on Timely and Appropriate Response to Significant Noncompliance Violations,</i> USEPA. Memorandum. Washington, DC. May 29, 2008
1984 Policy on Civil Penalties (GM-21)
Data Entry Technical Update for PCS Single Event Violations (in regard to entering lead agency and violation end dates) (5pp, PDF, 23KB)

## Appendix D. NPDES Permits EPA Retains Authority Over

<u>NPDES ID</u>	<u>Permit Name</u>	<u>Expired</u>	<u>Issued By</u>	<u>Tribal</u>	<u>Discharge Type</u>	<u>Permit Type</u>
<a href="#"><u>ID-002834-7</u></a>	LAPWAI VALLEY WASTEWATER TREATMENT PLANT	07/31/2016	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0000019</u></a>	POTLATCH LAND AND LUMBER LLC	10/31/2001	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0020150</u></a>	OROFINO, CITY OF	07/31/2016	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0020184</u></a>	CITY OF WINCHESTER	02/28/2018	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0020397</u></a>	NEZPERCE, CITY OF	03/31/2009	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0021288</u></a>	CRAIGMONT, CITY OF	03/31/2010	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0021814</u></a>	KOOSKIA, CITY OF	09/30/2007	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0022713</u></a>	WORLEY, CITY OF	04/30/2020	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0022781</u></a>	CITY OF PLUMMER	06/30/2017	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0024490</u></a>	CULDESAC, CITY OF	10/31/2007	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0024503</u></a>	THE RIVERSIDE WATER AND SEWER DISTRICT	10/30/2016	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0025101</u></a>	TENSED, CITY OF	03/31/2009	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0025224</u></a>	ASAHKA WATER AND SEWER DISTRICT	10/31/2016	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0028002</u></a>	KAMIAH, CITY OF	07/31/2016	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>ID0028461</u></a>	CITY OF KAMIAH WATER TREATMENT PLANT	12/31/2017	EPA	TRIBAL	NON-STORMWATER	INDIVIDUAL
<a href="#"><u>IDR120000/I</u></a>	IDENTIFIER FOR CONSTRUCTION GENERAL PERMIT FOR STORMWATER DISCHARGES- STATE OF	02/18/2017	EPA	TRIBAL	STORMWATER	GENERAL

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## Appendix E. NPDES Permits by Facility

Data used to generate this table queried from EPA's ICIS-NPDES data set in April 2016.

Permit#	Facility	Status*	Issued	Effective	Expires
ID0020176	ABERDEEN, CITY OF	EFF	9/1/2015	9/1/2015	8/31/2020
ID0027600	AGROPUR	ADC	8/28/2001	10/1/2001	10/2/2006
ID0000230	AMALGAMATED SUGAR CO LLC	ADC	7/19/1977	8/19/1977	6/30/1982
ID0020753	AMERICAN FALLS, CITY OF	EFF	5/28/2014	8/1/2014	7/31/2019
ID0023710	ASHTON, CITY OF	EFF	1/28/2014	4/1/2014	3/31/2019
ID0020532	BENNETT LUMBER PRODUCTS INC	ADC	10/31/2006	1/1/2007	12/31/2011
ID0025976	BEYER, CARL	PND			
ID0020044	BLACKFOOT, CITY OF	EFF	6/26/2013	9/1/2013	8/31/2018
ID0020443	BOISE, CITY OF	EFF	3/15/2012	8/1/2012	7/31/2017
ID0023981	BOISE, CITY OF	EFF	3/15/2012	8/1/2012	7/31/2017
ID0025488	BOISE, CITY OF	ADC	10/15/1999	11/16/1999	11/16/2004
ID0020222	BONNERS FERRY, CITY OF	EFF	9/29/2011	11/1/2011	10/31/2016
ID0020451	BONNERS FERRY, CITY OF	ADC	9/27/2006	11/1/2006	10/31/2011
ID0022861	BOVILL, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
ID0020664	BUHL, CITY OF	ADC	9/14/2007	11/1/2007	10/31/2012
ID0000663	BURLEY, CITY OF	ADC	3/31/2009	6/1/2009	5/31/2014
ID0020095	BURLEY, CITY OF	ADC	11/29/2001	1/7/2002	1/8/2007
ID0025453	CALDWELL HOUSING AUTHORITY	ADC	9/30/1999	11/2/1999	11/2/2004
ID0021504	CALDWELL, CITY OF	ADC	12/29/1998	2/1/1999	2/2/2004
ID0021806	CAMBRIDGE, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
ID0025747	CAREY, CITY OF	ADC	2/17/2004	5/1/2004	4/30/2009
ID0023167	CASCADE, CITY OF	ADC	11/17/2003	1/1/2004	1/1/2009
ID0020281	CITY OF KETCHUM	EFF	6/22/2012	8/1/2012	7/31/2017
ID0025071	CLARKIA WATER AND SEWER DISTRICT	EFF	11/23/2011	12/1/2011	11/30/2016
ID0001163	CLEARWATER PAPER CORPORATION	ADC	3/8/2005	5/1/2005	4/30/2010
ID0022853	COEUR D ALENE, CITY OF	EFF	9/30/2014	12/1/2014	11/30/2019
ID0021849	COTTONWOOD, CITY OF	ADC	8/30/2002	10/1/2002	9/30/2007
ID0020087	COUNCIL, CITY OF	ADC	2/17/2004	5/1/2004	4/30/2009
ID0025470	DAVIDSON, ROBERT S.	PND			
ID0020788	DEARY, CITY OF	ADC	3/5/2004	5/1/2004	4/30/2009
ID0020681	DEFENSE, ARMY COE	ADC	11/30/2001	1/5/2002	1/5/2007
ID0028479	DICKINSON FROZEN FOODS INC.	PND			
ID0027693	DOVER, CITY OF	ADC	11/30/2001	1/5/2002	1/5/2007
ID0020141	DRIGGS, CITY OF	EFF	11/4/2010	1/1/2011	12/31/2015
ID0028444	DWORSHAK RESERVIOR - USACOE	EFF	9/6/2011	10/15/2011	9/30/2016
ID0020133	EASTERN IDAHO REGIONAL WASTEWATER AUTHORITY	EFF	3/27/2014	6/1/2014	5/31/2019
ID0022012	ELK CITY WATER AND SEWER ASSOCIATION	ADC	8/15/2002	10/1/2002	9/30/2007
ID0020362	ELK RIVER, CITY OF	ADC	3/5/2004	5/1/2004	4/30/2009
ID0027979	ELK VALLEY SUBDIVISION	ADC	4/20/2005	6/1/2005	5/31/2010
ID0028487	EMIDA, CITY OF (WASTE WATER FACILITY)	PND			

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<b>ID0020311</b>	EMMETT, CITY OF	ADC	11/28/2001	12/31/2001	1/2/2007
<b>ID0024384</b>	FAIRFIELD, CITY OF	ADC	11/17/2003	11/24/2003	11/24/2008
<b>ID0020061</b>	FILER, CITY OF	ADC	9/14/2007	11/1/2007	10/31/2012
<b>ID0024988</b>	FIRTH, CITY OF	EFF	2/27/2013	4/1/2013	3/31/2018
<b>ID0025569</b>	FRANKLIN, CITY OF	ADC	4/6/2004	6/1/2004	4/30/2009
<b>ID0020338</b>	FRUITLAND, CITY OF	EFF	9/22/2011	11/1/2011	10/31/2016
<b>ID0021199</b>	FRUITLAND, CITY OF	EFF	9/26/2011	11/1/2011	10/31/2016
<b>ID0020125</b>	GENESEE, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
<b>ID0025143</b>	GEORGETOWN, CITY OF	PND			
<b>ID0022004</b>	GLENNS FERRY, CITY OF	EFF	11/17/2011	1/1/2012	12/31/2016
<b>ID0020028</b>	GOODING, CITY OF	ADC	3/27/2000	5/1/2000	5/1/2005
<b>ID0023825</b>	GRACE, CITY OF	EFF	9/15/2014	11/1/2014	10/31/2019
<b>ID0020036</b>	GRANGEVILLE, CITY OF	ADC	8/3/2005	10/1/2005	9/30/2010
<b>ID0028304</b>	GREENLEAF, CITY OF	EFF	11/26/2012	1/1/2013	12/31/2017
<b>ID0025941</b>	HAGERMAN, CITY OF	ADC	9/14/2007	11/1/2007	10/31/2012
<b>ID0020303</b>	HAILEY, CITY OF	EFF	6/22/2012	8/1/2012	7/31/2017
<b>ID0022446</b>	HANSEN, CITY OF	ADC	9/14/2007	11/1/2007	10/31/2012
<b>ID0021997</b>	HARRISON, CITY OF	ADC	6/29/2005	9/1/2005	8/31/2010
<b>ID0026590</b>	HAYDEN AREA REGIONAL SEWER BOARD	EFF	9/30/2014	12/1/2014	11/30/2019
<b>ID0000167</b>	HECLA LTD	ADC	2/12/1990	3/14/1990	3/13/1995
<b>ID0000175</b>	HECLA LTD	ADC	8/12/2003	9/14/2003	9/14/2008
<b>ID0026468</b>	HECLA MINING CO	ADC	12/13/2001	4/28/2002	1/29/2007
<b>ID0027901</b>	HENGGELER PACKING CO INC	PND			
<b>ID0020940</b>	HEYBURN, CITY OF	ADC	11/29/2001	1/7/2002	1/8/2007
<b>ID0020427</b>	HOMEDALE, CITY OF	EFF	8/28/2013	10/1/2013	9/30/2018
<b>ID0021024</b>	HORSESHOE BEND, CITY OF	ADC	11/17/2003	11/24/2003	11/24/2008
<b>ID0028291</b>	ID FISH AND GAME/KOOTENAI TRIBE	ADC	6/2/2006	6/2/2006	6/2/2011
<b>ID0028321</b>	IDAHO COBALT PROJECT	ADC	2/9/2009	4/1/2009	3/31/2014
<b>ID0021261</b>	IDAHO FALLS, CITY OF	EFF	9/20/2012	11/1/2012	10/31/2017
<b>ID0027171</b>	IDAHO HOT SPRINGS FOUNDATION	PND			
<b>ID0020907</b>	IDAHO POWER CO	ADC	6/28/1974	6/28/1974	3/31/1979
<b>ID0028517</b>	IDAHO POWER COMPANY/BRADY SUBSTATION	PND			
<b>ID0000388</b>	INDEPENDENT MEAT CO	ADC	6/2/1978	7/3/1978	7/3/1983
<b>ID0020249</b>	INKOM, CITY OF	ADC	4/20/2005	6/1/2005	5/31/2010
<b>ID0020168</b>	JEROME, CITY OF	ADC	5/27/2010	7/1/2010	6/30/2015
<b>ID0028029</b>	JUG MOUNTAIN RANCH LLC	ADC	8/24/2004	8/24/2004	7/31/2009
<b>ID0023761</b>	JULIAETTA, CITY OF	ADC	3/5/2004	5/1/2004	4/30/2009
<b>ID0024554</b>	KENDRICK, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
<b>ID0021229</b>	KOOTENAI-PONDERAY SEWER DISTRICT	ADC	11/30/2001	1/5/2002	1/5/2007
<b>ID0028355</b>	KUNA, CITY OF	ADC	4/21/2009	6/1/2009	5/31/2014
<b>ID0027944</b>	LACLEDE WATER DISTRICT	ADC	9/27/2006	11/1/2006	10/31/2011
<b>ID0021822</b>	LAVA HOT SPRINGS, CITY OF	ADC	4/20/2005	6/1/2005	5/31/2010
<b>ID0022055</b>	LEWISTON, CITY OF	ADC	11/26/2001	12/31/2001	1/2/2007
<b>ID0026531</b>	LEWISTON, CITY OF	ADC	9/25/2006	11/1/2006	10/31/2011

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<b>ID0023027</b>	MACKAY, CITY OF	ADC	3/19/2004	6/1/2004	5/31/2009
<b>ID0021202</b>	MARSING, CITY OF	ADC	2/27/2004	5/1/2004	4/30/2009
<b>ID0000612</b>	MCCAIN FOODS USA INC	EFF	9/23/2014	11/1/2014	10/31/2019
<b>ID0020231</b>	MCCALL, CITY OF	ADC	3/27/2003	5/1/2003	4/30/2008
<b>ID0027022</b>	MERIDIAN BEARTRACK COMPANY	ADC	10/31/2003	12/1/2003	10/31/2008
<b>ID0028339</b>	MERIDIAN SOUTH WWTP	PND			
<b>ID0020192</b>	MERIDIAN, CITY OF	ADC	9/30/1999	11/2/1999	11/2/2004
<b>ID0021831</b>	MIDDLETON, CITY OF	EXP	9/30/1999	11/2/1999	11/2/2004
<b>ID0024422</b>	MID-VALLEY SEWER COMPANY LLC	EFF	6/22/2012	8/1/2012	7/31/2017
<b>ID0025585</b>	MONTPELIER, CITY OF	ADC	4/20/2005	7/1/2005	6/30/2010
<b>ID0021491</b>	MOSCOW, CITY OF	ADC	3/12/1999	4/14/1999	4/14/2004
<b>ID0027642</b>	MOUNTAIN HOME AIR FORCE BASE WWTP	ADC	10/8/2009	12/1/2009	11/30/2014
<b>ID0022063</b>	NAMPA, CITY OF	ADC	12/29/1998	2/1/1999	2/2/2004
<b>ID0023159</b>	NEW MEADOWS, CITY OF	EFF	6/26/2013	8/1/2013	7/31/2018
<b>ID0020389</b>	NEW PLYMOUTH, CITY OF	ADC	11/28/2001	12/31/2001	1/2/2007
<b>ID0028347</b>	Nez Perce Tribe Water Resources Division	EFF	8/5/2011	8/5/2011	7/31/2016
<b>ID0025259</b>	NORANDA MINING INC	ADC	3/30/1990	4/30/1990	4/30/1995
<b>ID0025887</b>	NORTH IDAHO CORRECTIONAL INSTITUTION	ADC	3/5/2004	5/1/2004	4/30/2009
<b>ID0021016</b>	NOTUS, CITY OF	EFF	8/26/2013	10/1/2013	9/30/2018
<b>ID0001198</b>	P4 PRODUCTION LLC	ADC	9/21/1982	9/21/1982	9/21/1987
<b>ID0021776</b>	PARMA, CITY OF	ADC	2/27/2004	5/1/2004	4/30/2009
<b>ID0020672</b>	PAYETTE, CITY OF	EFF	9/15/2014	11/1/2014	10/31/2019
<b>ID0020206</b>	PIERCE, CITY OF	ADC	3/5/2004	5/1/2004	4/30/2009
<b>ID0020893</b>	PIERCE, CITY OF	ADC	9/25/2006	11/1/2006	10/31/2011
<b>ID0021784</b>	POCATELLO, CITY OF	EFF	7/27/2012	9/1/2012	8/31/2017
<b>ID0025852</b>	POST FALLS, CITY OF	EFF	9/30/2014	12/1/2014	11/30/2019
<b>ID0022501</b>	POTLATCH, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
<b>ID0020214</b>	PRESTON, CITY OF	ADC	5/31/2005	8/1/2005	7/31/2010
<b>ID0020800</b>	PRIEST RIVER, CITY OF	EFF	11/16/2011	12/1/2011	11/30/2016
<b>ID0028436</b>	PRINCETON-HAMPTON WATER & SEWER DISTRICT	PND			
<b>ID0026077</b>	RESCUE MINE	PND			
<b>ID0023817</b>	REXBURG, CITY OF	EXP	8/9/2001	9/11/2001	9/11/2006
<b>ID0021211</b>	RICHFIELD, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
<b>ID0020010</b>	RIGBY, CITY OF	ADC	6/15/2005	8/1/2005	7/31/2010
<b>ID0020931</b>	RIGGINS, CITY OF	EFF	8/16/2012	9/1/2012	8/31/2017
<b>ID0026174</b>	RIRIE, CITY OF	ADC	11/17/2003	1/1/2004	1/1/2009
<b>ID0026085</b>	RIVERDALE RESORT	PND			
<b>ID0025194</b>	RIVERSIDE INN-RIVERSIDE HOT SP	PND			
<b>ID0027952</b>	ROARING SPRING WATER PARK	PND			
<b>ID0026913</b>	ROBERTS, CITY OF	ADC	2/17/2004	5/1/2004	4/30/2009
<b>ID0022047</b>	ROCKLAND, CITY OF	ADC	11/29/2001	1/7/2002	1/8/2007
<b>ID0020001</b>	SALMON, CITY OF	ADC	8/21/2007	10/1/2007	9/30/2012
<b>ID0020842</b>	SANDPOINT, CITY OF	ADC	11/30/2001	1/5/2002	1/5/2007

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<b>ID0024350</b>	SANDPOINT, CITY OF	ADC	9/27/2006	11/1/2006	10/31/2011
<b>ID0022845</b>	SANTA-FERNWOOD SEWER DISTRICT	ADC	4/6/2004	6/1/2004	4/30/2009
<b>ID0000213</b>	SENECA FOODS CORP	ADC	11/28/2001	12/31/2001	1/2/2007
<b>ID0023728</b>	SHOSHONE, CITY OF	ADC	2/14/2005	4/1/2005	3/31/2010
<b>ID0028509</b>	SILVER FALCON MINING INC - SINKER TUNNEL MINE SITE	PND			
<b>ID0000060</b>	SILVER OPPORTUNITY PARTNERS LLC	ADC	8/8/1991	9/9/1991	9/9/1996
<b>ID0000159</b>	SILVER OPPORTUNITY PARTNERS, LLC	ADC	9/29/1988	9/29/1988	9/28/1993
<b>ID0020117</b>	SMELTERVILLE, CITY OF	EFF	8/26/2013	10/1/2013	9/30/2018
<b>ID0020818</b>	SODA SPRINGS WWTP, CITY OF	ADC	11/16/2001	12/21/2001	12/21/2006
<b>ID0028037</b>	SORRENTO LACTALIS INC	ADC	9/14/2005	11/1/2005	10/31/2010
<b>ID0021296</b>	SOUTH FORK COEUR D ALENE RIVER SEWER DISTRICT	EFF	8/26/2013	10/1/2013	9/30/2018
<b>ID0021300</b>	SOUTH FORK COEUR D ALENE RIVER SEWER DISTRICT	EFF	8/26/2013	10/1/2013	9/30/2018
<b>ID0020401</b>	ST. ANTHONY, CITY OF	ADC	10/2/2009	12/1/2009	11/30/2014
<b>ID0022799</b>	ST. MARIES, CITY OF	ADC	9/17/2007	10/1/2007	9/30/2012
<b>ID0023591</b>	STAR WATER AND SEWER DISTRICT	EXP	9/30/1999	11/2/1999	11/2/2004
<b>ID0027928</b>	SUN VALLEY CO	PND			
<b>ID0028495</b>	SYRINGA MOBILE HOME PARK	PND			
<b>ID0025402</b>	THOMPSON CREEK MINING COMPANY	ADC	12/13/2001	1/28/2002	1/29/2007
<b>ID0023604</b>	TROY, CITY OF	ADC	3/5/2004	5/1/2004	4/30/2009
<b>ID0021270</b>	TWIN FALLS, CITY OF	ADC	9/22/2009	11/1/2009	10/31/2014
<b>ID0020699</b>	U.S. FOREST SERVICE	EFF	2/15/2012	4/1/2012	3/31/2017
<b>ID0000027</b>	U.S. SILVER CORP - IDAHO INC	ADC	5/24/2007	7/1/2007	6/30/2012
<b>ID0025429</b>	U.S. SILVER CORP - IDAHO INC	ADC	3/30/1990	3/30/1990	3/30/1995
<b>ID0027154</b>	UNIVERSITY OF IDAHO	ADC	3/12/1999	4/14/1999	4/14/2004
<b>ID0026310</b>	VIOLA WATER AND SEWER DISTRICT	ADC	3/15/2004	3/15/2004	2/28/2009
<b>ID0020354</b>	WEIPPE, CITY OF	EFF	9/12/2014	11/1/2014	10/31/2019
<b>ID0001155</b>	WEISER, CITY OF	ADC	9/25/2006	11/1/2006	10/31/2011
<b>ID0020290</b>	WEISER, CITY OF	EFF	11/23/2011	1/1/2012	12/31/2016
<b>ID0024953</b>	WESTFARM FOODS INC	ADC	9/30/1999	11/2/1999	11/2/2004
<b>ID0020265</b>	WILDER, CITY OF	ADC	4/20/2005	6/1/2005	5/31/2010
<b>ID0028312</b>	WILDERNESS RANCH WTP	ADC	9/25/2006	11/1/2006	10/31/2011
<b>ID0020184</b>	WINCHESTER, CITY OF	EFF	1/14/2013	3/1/2013	2/28/2018
<b>ID0000787</b>	XL FOUR STAR BEEF INC	ADC	12/29/1998	2/1/1999	2/2/2004

EFF = permit effective, ADC = permit administratively continued, PND = permit pending issuance

## **Appendix F. Permits Listed by Phasing Schedule**

Under construction

