

**AUTHORIZATION AGREEMENT
BETWEEN THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY AND
THE
U.S. ENVIRONMENTAL PROTECTION AGENCY,
REGARDING ISSUANCE OF EPA INSPECTOR CREDENTIALS
UNDER THE FEDERAL CLEAN WATER ACT (CWA)**

I. Purpose

This Authorization Agreement (Agreement) is by and between the State of Idaho Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency (EPA) for the purpose of authorizing state government employees to conduct National Pollutant Discharge Elimination System (NPDES) inspections under the Clean Water Act (CWA) Section 308 within the State of Idaho on EPA's behalf. DEQ and EPA agree that certain DEQ staff would receive authorization for EPA inspector credentials to conduct NPDES inspections. EPA Region 10 has determined that it is in EPA's interest and appropriate to issue these credentials.

This Agreement was developed in accordance with EPA's attached "Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA," September 30, 2004 (Credentials Guidance). All activities related to the authorization of inspectors and issuance and use of federal credentials will be consistent with the Credential Guidance, as well as all other EPA policies and directives and this Agreement. Nothing in this Agreement shall limit the authority of EPA under any federal law.

Specific DEQ staff will maintain the EPA credentials in accordance with this Agreement until DEQ has received approval and authorization for implementation of the NPDES Program within the State of Idaho, and DEQ has assumed responsibility for all approved NPDES program components.

II. General Agreements

The parties agree that the following general provisions shall apply:

A. EPA and DEQ enter into this Agreement for the purpose of authorizing employees of DEQ to conduct NPDES inspections on behalf of EPA. This Agreement sets forth training requirements; procedures for processing, securing, suspending and revoking EPA inspector credentials; conditions and limitations for using EPA inspector credentials; record keeping requirements; procedures for submission and review of inspection reports, and other provisions governing EPA authorizations. A federal credential cannot be used to carry out state programs. DEQ retains such independent authority as it may have under state law, but this is separate from authority under federal law.

B. DEQ inspectors with federal credentials will only use those credentials in the manner directed by EPA to assist EPA in carrying out its responsibilities under federal environmental statutes. Inspections will conform to EPA guidance and the requirements of federal law and regulations.

C. An inspection by a DEQ inspector is the gathering of evidence and the physical observation of certain conditions and is not a determination of compliance with federal law.

D. DEQ inspectors conducting inspections using credentials issued by EPA will submit an Inspection Report for each inspection conducted using an EPA credential. EPA is responsible for determining whether follow-up enforcement action is warranted.

E. The results of inspections carried out by DEQ inspectors may be used by EPA in enforcement actions. EPA will provide feedback to DEQ prior to initiating any CWA enforcement action within the State, in accordance with established policies, procedures, and agreements.

III. Designated Contacts.

DEQ and EPA hereby designate the following persons as the contacts for inspection activities for their respective program:

DEQ:

A.J. Maupin, Wastewater Engineer
Water Quality Division
1410 N. Hilton
Boise, Idaho 83706
Phone: 208-373-0167
Facsimile: 208-373-0576

EPA:

Kimberly Ogle, Unit Manager
NPDES Compliance Unit
Office of Compliance and Enforcement (OCE-133)
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
Phone: (206) 553-0955
Facsimile: (206) 553-1280

The DEQ and EPA contacts will be the primary contacts between the DEQ and EPA regarding inspection activities. The contacts may be changed at any time with written notice to the other party.

IV. Procedures to Issue Credentials

A. DEQ will identify in writing individual inspectors that DEQ believes should be authorized by EPA to receive federal credentials, addressing the matters set forth in the Credential Guidance. EPA may, in its sole discretion, issue federal credentials using the

Credential Guidance.

B. Before being eligible to receive an EPA credential an DEQ inspector must complete training as described in Appendix 3, Sections 1-4 and 5-G of the Credentials Guidance. The training includes EPA's Basic Inspector Training, EPA's Health and Safety Training (minimum of 24-hour course), and any other health and safety training as identified by the person's supervisor, CWA-NPDES program-specific training, and training on the relevant terms and conditions of this Agreement. CWA-specific training includes mandatory training, mandatory reading and self-study, mandatory on-the-job training (including a minimum number of inspections for each type of inspection activity with a lead inspector), and the review of inspection reports/files, and mandatory refresher training.

C. The inspector's supervisor will certify and provide documentation to the Region that the training has been completed. Verification and documentation will be provided prior to or when the state submits a request for a credential.

No later than March 31st of each calendar year, the Inspector's supervisor shall provide EPA with information verifying the completion of annual Health and Safety and program specific refresher training. This information shall include:

- Name, date, and agenda of training completed.
- Name and Federal Inspector Number for each inspector completing the training.

D. EPA may, in its sole discretion, issue the federal credential to identified DEQ inspectors in accordance with the Credential Guidance.

E. In order to issue the credential, EPA must have two passport quality photographs of the inspector and the information listed on the credential form (to be supplied by EPA).

F. When the credential is issued, EPA will send it to the DEQ Contact with an Acknowledgment and Receipt (Form D). The inspector must read and sign Form D upon receipt of the credential and the inspector's supervisor must send Form D back to EPA within three days to verify receipt of the credential. The form will contain an acknowledgement statement that the inspector agrees to abide by the conditions/limitations in this agreement and commits the inspector to return the credential upon EPA/DEQ request.

V. Inspection Activities

A. DEQ inspectors will use EPA's inspection authority when carrying out inspections on EPA's behalf with EPA credentials. DEQ will conduct inspections at the specific request of EPA, or in situations previously agreed upon between EPA and the State in an inspection plan. The State inspection plan or strategy will be part of the EPA/DEQ Performance Partnership Agreement work plan and can be found in the agreement file. Inspection targets and projections will be developed annually by EPA and DEQ and be

incorporated into the Performance Partnership Agreement.

B. The conduct and procedures used by DEQ inspectors during an inspection will be consistent with applicable federal environmental statutes, regulations, and policies. Inspections shall be conducted in accordance with the EPA current CWA-NPDES Inspection Manual and the EPA Regional Quality Management Plan, which can be found in the Performance Partnership Agreement. DEQ inspectors are to use EPA forms and procedures, including EPA Form 3560-3, in carrying out these inspections. If an EPA form makes a specific reference to an employee of EPA or contains other inaccurate language, DEQ will correct such reference in ink to reflect that the inspector is an "employee of DEQ acting on behalf of EPA" or "authorized by EPA."

C. Inspections conducted by DEQ inspectors under federal authority are conducted with the facility's consent. In the event a DEQ inspector is denied entry to any facility, he or she shall immediately notify the EPA Contact by telephone (with a follow-up written notification within 24-hours). The EPA Contact will coordinate with EPA's Office of Regional Counsel (ORC) and the DEQ inspector to determine whether EPA will carry out the inspection and/or seek a warrant.

D. Each authorized DEQ inspector conducting inspections using credentials issued by EPA will submit an inspection report for each inspection conducted to the EPA contact for review within 60 days of completion of the inspection. For all inspections conducted by the State inspector with an EPA credential, the Region will provide feedback and keep the State informed on a quarterly basis on the progress and disposition of the action taken by the Region, if any. The Region will also provide feedback on the quality of inspections and inspection reports on a quarterly basis.

E. State inspectors should not receive information subject to a business confidentiality claim (as defined in 40 CFR §2.201). EPA will be responsible for seeking and maintaining any such information. If a facility claims information as Confidential Business Information (CBI) during an inspection, the DEQ inspector will determine if the inspection can continue without reviewing the CBI. If the inspector cannot continue the inspection without reviewing CBI, the inspector will stop the inspection and contact EPA.

F. During an authorized NPDES inspection on behalf of EPA, the inspector will provide a Small Business Regulatory Enforcement Fairness Act (SBREFA) Fact Sheet to all non-governmental entities.

VI. Requirements Following Issuance of Credentials

A. EPA credentials will show an expiration date and are valid for no more than three years from the issuance date and may be reissued as EPA determines appropriate.

B. Each authorized DEQ inspector will undergo program specific refresher training and annual 8-hour Health and Safety Training as specified in the Credential Guidance. The inspector's supervisor must submit documentation on an annual basis that the required annual Health and Safety and annual program-specific training has been completed. The

inspector's supervisor must also determine if additional health and safety training is needed.

C. EPA may suspend or revoke its authorization of a DEQ inspector at any time and require immediate return of the credential. DEQ may revoke its employee's EPA credentials for its own reasons. If this occurs, DEQ will notify EPA and return the credential to the EPA Contact within 7 days.

D. DEQ will return an EPA credential at any time upon the request by EPA. In addition, the credential will be returned to EPA if: (1) an authorized DEQ inspector is reassigned, transferred, or is no longer employed as an inspector; (2) the credential has expired; (3) the credential is no longer required; (4) authorization is suspended; (5) authorization is revoked; (6) a previously issued credential that was lost or stolen is found; or (7) this Agreement is terminated.

VII. Other Provisions

A. DEQ inspectors may use EPA credentials only for inspections conducted within the state of Idaho, excluding Indian Country. In situations where the EPA has identified a specific need for cross-boundary inspections, and there is no written agreement between the state(s)/tribe(s), cross-boundary inspections may be authorized using the EPA-issued credential provided one of the following occurs:

1. Prior to such inspections being conducted, the EPA has notified the appropriate state/tribal official where inspections will be conducted that EPA has authorized an employee of another state/tribe to conduct inspections on EPA's behalf and the state/tribal official agrees to having inspections conducted by an inspector from a different state/tribe, and the Region memorialized in writing the agreement and provides copies to the state(s)/tribe(s) involved. The Regional summary of the agreement needs to include: the names of the officials who agreed, their titles, the time period of the agreement, and the terms of the agreement. In addition, the Region must ensure that the state or tribal official for the location at which the inspection will be conducted is notified in advance that the specific inspection is scheduled and who will conduct the inspection.

2. The EPA may request a state/tribal inspector to conduct a specific cross-boundary inspection by making a site-specific request in writing (fax or e-mail is acceptable) after consulting with and getting agreement from the appropriate state/tribe official where the inspection will be conducted. Both state(s)/tribe(s) should be copied by the Region. If there is disagreement by the state/tribal official where the inspection will be conducted over a state/tribal inspector conducting a cross-boundary inspection, the Region should conduct the inspection.

B. Safeguarding the credential:

1. The credential is to be safeguarded at all times. When not carrying the

credential, the inspector will ensure that it is secure (e.g., locked in a secure location).

2. DEQ inspectors will not allow anyone to photocopy the EPA-issued credential. During inspections, the inspector will not relinquish the credential.

3. If a credential is misplaced or stolen, the DEQ inspector will report this immediately to his/her supervisor, and the DEQ Contact will report this to EPA Contact as soon as possible, but not later than 72 hours after discovering that the credential is missing

C. DEQ inspectors will be available as witnesses and to provide support in an EPA enforcement action related to an authorized state conducted inspection. The EPA and the DEQ inspector will consult as to the most efficient means for DEQ inspector participation. Prior to being called to testify, EPA will need to verify the inspector's stated qualifications (e.g., educational background/work experience). DEQ inspectors will provide information regarding their academic/professional background upon EPA request.

D. To the maximum extent allowable under the state public records law, DEQ and all DEQ inspectors will keep confidential, and not disclose to any third-party without EPA approval, any information concerning an inspection or inspection-related activities undertaken or to be undertaken by the DEQ inspectors. Failure to abide by this may result in revocation of the federal credentials.

E. The State will maintain a file for each inspection and inspection-related activity undertaken by DEQ inspectors. The file will be available for review and/or copying upon request by EPA representatives. DEQ will maintain the file in the manner specified above and will retain the file for a period of five years from the date of the inspection. After this period, DEQ shall return the file to the EPA Contact. The State will adhere to EPA's "National Policy Requirements for Retaining Inspection Field Notes," February 26, 2009.

VIII. Reservation of Rights

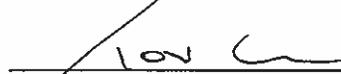
A. EPA and DEQ reserve any and all rights and authority that they have, including but not limited to legal, equitable or administrative rights. EPA and DEQ retain full responsibility for its own actions, and neither assumes any responsibility for the actions of the other. Nothing herein affects or limits the authority or ability of EPA or DEQ to take any compliance monitoring or enforcement action authorized by its respective authority.

B. This Agreement is solely between EPA and DEQ and is not intended to be enforceable by any third party. Nothing herein is intended to create any rights, obligations, responsibilities, or benefits to any third party.

IX. Effective Date, Amendment, and Termination

This Agreement shall be effective upon signature by both parties. This Agreement may not be amended except by written agreement executed by both parties. This Agreement shall continue in effect until terminated by joint written agreement of the parties. However either party may unilaterally terminate the Agreement by giving thirty (30) days written notice to the other party.

IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY



Toni Hardesty, Director
Idaho Department of Environmental Quality

Date: 7/18/11

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Edward J. Kowalski, Director
Office of Compliance and Enforcement
U.S. EPA Region 10

Date: 7/25/2011

CONCURRENCES

Title:	Compliance Officer	Program Unit Manager	ORC Attorney	Regional Credentials Contact	
Name:	M. Lopez	K. Ogle	J. Matthews	D. Bott	
Initials:					
Date:					