

# Hospital/Medical/Infectious Waste Incinerators Federal Plan Delegation

## Memorandum of Agreement

Between  
Idaho Department of Environmental Quality  
and  
The United States Environmental Protection Agency, Region 10

### **I. GENERAL**

- A. This Memorandum of Agreement defines policies, responsibilities, and procedures pursuant to 40 C.F.R. Part 62, Subpart HHH and 40 C.F.R. Part 60, Subpart Ce, by which the Federal Plan for Hospital/Medical/Infectious Waste Incinerators will be administered and enforced by both the Idaho Department of Environmental Quality and the Environmental Protection Agency. Such agreement will be maintained consistent with the Clean Air Act and its regulations. The provisions of this MoA include the terms, conditions, and the effective date of the delegation of the Federal Plan for HMIWI. This MoA shall serve as a mechanism for the transfer of authority to the DEQ. The delegation of the Federal Plan to the DEQ is designed to be in effect until there are no HMIWI facilities within the jurisdiction of the Federal Plan in Idaho, the effective date of EPA approval of a State Plan that the DEQ has submitted, or the EPA withdraws delegation of the Federal Plan according to the provisions of this MoA.
- B. This MoA is subject to all federal laws and regulations as well as EPA policies, guidance, and determinations issued pursuant to 40 C.F.R. Parts 60 and 62.
- C. If both a state or local regulation and a federal regulation apply to the same source, both must be complied with, regardless of whether the one is more stringent than the other, pursuant to the requirements of section 116 of the Clean Air Act.
- D. This agreement is entered into by the Director of the DEQ and the Regional Administrator of the EPA Region 10. In a letter dated April 14, 2014, Director Curt Fransen of the DEQ requested from the EPA delegation of authority for the DEQ to implement and enforce the Federal Plan. The geographic area covered by this MoA is the state Idaho excepting any Indian reservation land or any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction in Idaho.
- E. The EPA may revoke all or part of this delegation if the EPA determines that the DEQ has failed to properly implement or enforce the Federal Plan. Any such revocation shall be effective as of the date specified in written notice from the EPA to the DEQ of the

revocation. Implementation and enforcement of the Federal Plan is subject to the current Compliance Assurance Agreement for Air Quality between the DEQ and the EPA. The Compliance Assurance Agreement for Air Quality clearly defines roles and responsibilities, including timely and appropriate enforcement response and the maintenance of the Aerometric Facility Subsystem (AFS).

- F. The delegation of the Federal Plan to the DEQ shall become effective upon signature of this MoA by both the DEQ and the EPA.
- G. This MoA may be modified only with the mutual consent of both parties for any purpose. Any revisions or modifications to this MoA must be in writing and must be signed by both the DEQ and the EPA.
- H. This MoA does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement against the EPA or the DEQ, their officers or employees, or any other person. This MoA does not apply to any person outside of the DEQ or the EPA.

## **II. DELEGATION OF AUTHORITIES**

- A. Subject to the terms and conditions of this MoA, the EPA delegates to the DEQ the authority to implement and enforce the Federal Plan. However, the EPA also retains authority to implement and enforce the Federal Plan.
- B. The following authorities are retained by the EPA and are not delegated to the DEQ:
  - 1. The authorities specifically listed under 40 C.F.R. § 62.14453.
  - 2. Authority to approve alternate opacity standards, pursuant to 40 C.F.R. § 60.11.

### **III. PROGRAM IMPLEMENTATION**

#### **A. The DEQ agrees to do the following:**

1. Enforce the Federal Plan in accordance with the provisions of 40 C.F.R. Part 62, Subpart HHH, "Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or before December 1, 2008," and in accordance with the Compliance Assurance Agreement for Air Quality referenced above.
2. Submit to the EPA copies of any air-related permits for HMIWI facilities.
3. Ensure affected Idaho facilities comply with the "operator certification requirements" and "operator training requirements" sections of the Federal Plan.
4. Administer and oversee compliance reporting and record keeping requirements.
5. Administer and oversee performance testing and monitoring requirements.
6. Inspect all affected HMIWIs at least once every two years.
7. Perform follow-up inspections or review of facility records to ensure correction of violations discovered during routine inspections.
8. Update the Federal Plan and compliance monitoring and enforcement program in collaboration with the EPA, as needed.
9. Ensure that all relevant source notification, and report information is entered into the AFS database system to meet recordkeeping/reporting requirements. The AFS reporting elements for "source information" that the DEQ is expected to provide include, but are not limited to:
  - a. Identification of source
  - b. Pollutants regulated
  - c. Applicability of subparts
  - d. Permit number for specific source or sub-unit
  - e. Dates of most recent Federal Plan compliance evaluations (inspections)
  - f. Compliance status

#### **B. The EPA agrees to do the following:**

1. Provide technical support and assistance, and training opportunities for interpretation of national regulations, development of technology-based requirements, automated transmission of data to EPA databases, and other related areas as requested by the DEQ.
2. Make reasonable efforts to communicate to the DEQ when additional legal, technical, and financial resources may be necessary to implement new requirements of Section 111(d) and 129 of the CAA for HMIWI, as they become applicable.
3. Review and appropriately respond to all information submitted by the DEQ.
4. Take final action on any substantial modification to this delegation agreement submitted by the DEQ or initiated by the EPA.

#### **C. The DEQ and the EPA agree:**

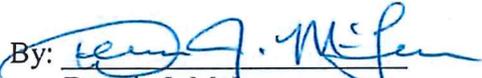
1. The EPA will assess the DEQ's administration of the Federal Plan on a continuing basis for consistency with Subpart HHH, Title V, New Source Review, New Source Performance Standards, and all other requirements of the Act. This assessment will be

accomplished by the EPA review of information submitted by the DEQ, permit overview, and compliance and enforcement overview.

2. The DEQ will be the recipient of all notifications and reports and be the point of contact for questions and compliance issues for this delegated Federal Plan. The EPA may request notifications and reports from sources, if needed.
3. The EPA will consider written comments received from regulated persons, the public, and Federal, State, and local agencies in assessing the delegation of the Federal Plan to the DEQ. Copies of any comments received from such sources will be provided to the DEQ within seven working days of receipt.
4. The EPA may audit the DEQ by examining the files and documents related to affected facilities.
5. If the EPA determines that the DEQ is not adequately administering or enforcing the Federal Plan, the EPA will notify the DEQ of the determination as soon as possible and provide the reasons for the determination. The DEQ and the EPA will then determine the process and time frame for correcting the deficiencies in an expeditious manner. The DEQ agrees to allow the EPA access to all files and other requested information deemed necessary by the EPA to ensure administration and enforcement of the delegated Federal Plan consistent with EPA policy.
6. The DEQ will maintain a record of all approved alternatives to monitoring, testing, recordkeeping, and/or reporting requirements, and will provide this list of alternatives to the EPA semi-annually or more frequently if requested by the EPA. The EPA may audit any approved alternatives and disapprove any that it determines are inappropriate, after discussion with the DEQ. If changes are disapproved, the DEQ must notify the source that it must revert to the original applicable monitoring, testing, recordkeeping, and/or reporting requirements. Also, in cases where the source does not maintain the conditions which prompted the approval of the alternatives to the monitoring, testing, recordkeeping, and/or reporting requirements, the DEQ must require the source to revert to the original monitoring, testing, recordkeeping, and reporting requirements, or more stringent requirement.
7. The DEQ does not have the federally-recognized authority to further delegate the Federal Plan to any other state or local agency.
8. The DEQ and the EPA agree to the following procedures with respect to confidentiality of information.
  - a. Other than attorney-client privileged communication between the DEQ and the Idaho Attorney General's office, any information obtained or used in the administration of the Federal Plan shall be available to the EPA upon request without restriction. If the information has been submitted to the DEQ under a claim of confidentiality, the DEQ must submit that claim to the EPA when providing the information.
  - b. If any information is submitted to the DEQ under a claim of confidentiality and Idaho statutes prohibit the release of that information to the EPA, the DEQ will require the source to submit the information directly to the EPA.
  - c. Any information obtained from the DEQ or from a source subject to a claim of confidentiality will be treated by the EPA in accordance with the regulations in 40 C.F.R. Part 2.

**IV. Signatures**

United States Environmental Protection Agency, Region 10

By:   
Dennis J. McLerran  
Regional Administrator

Date: 10/9/14

Idaho Department of Environmental Quality

By:   
*for* Director

Date: 11/7/14