

APPENDIX V

MEMORANDUM OF AGREEMENT BETWEEN
THE STATE OF IDAHO
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

I. GENERAL

This Memorandum of Agreement (Agreement) establishes policies, responsibilities, and procedures pursuant to 40 CFR 271.8 for the State of Idaho (State) Hazardous Waste program authorized under Section 3006 of the Resource Conservation and Recovery Act (RCRA or the Act) of 1976 (42 USC 6901 et seq.), as amended (Public Laws 94-580, 96-482, 98-616), and the United States Environmental Protection Agency (EPA) Regional Office for Region 10. This Agreement further sets forth the manner in which the State and EPA will coordinate in the State's administration and enforcement of the State program, pending authorization, and EPA's administration of the non-authorized provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA). For purposes of this Agreement, references to "RCRA" include HSWA.

This Agreement is entered into by the Director of the Idaho Department of Environmental Quality (DEQ or the State), and the Regional Administrator, EPA Region 10 (RA or EPA) (collectively referred to as "the parties" or singularly as "party").

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271. This Agreement does not restrict EPA's oversight authority for State program activities that are part of the federal program, does not establish privity between EPA and the State, and does not restrict EPA's independent enforcement authority. No waiver of sovereign immunity is implied or assumed by this Agreement.

The parties will review the Agreement jointly as needed or appropriate, and during preparation of the State Grant work plan or Performance Partnership Grant (Grant), in connection with grant funding under section 3011 of RCRA.

This Agreement may be modified by the initiation of either party with changes made and mutually agreed upon through signature of both parties. The purposes for revision to this Agreement may include, but are not limited to, ensuring consistency with State or EPA policy or program modifications. Any revisions or modifications to this Agreement must be in writing and must be signed by the State and EPA. This Agreement will remain in effect until such time as State program authorization is withdrawn by or is voluntarily transferred to EPA according to the criteria and procedures established in 40 CFR 271.22 and 40 CFR 271.23.

This Agreement is being revised because the State is submitting a revised authorization application. This Agreement shall be signed by the State and EPA and shall become effective after being signed by both parties. This Agreement shall replace the Agreement dated August 2, 2001.

II. POLICY STATEMENT

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon the EPA granting final authorization, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its geographic boundaries, except in Indian country (as defined in 18 USC § 1151). The EPA retains full authority and responsibility for the implementation of RCRA in Indian country within the State of Idaho. The State will conduct its hazardous waste program in accordance with EPA program policies and guidance.¹ While EPA retains responsibility for the direct implementation of those provisions of HSWA for which the State is not authorized, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible. The State and the EPA agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

EPA will oversee implementation of the authorized State program to ensure full execution of the requirements of RCRA, to promote national consistency in the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage the State and EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. Oversight will be accomplished by the EPA through regular engagement with DEQ, written reporting requirements, permit overview, compliance and enforcement overview, including the State Review Framework process (SRF), and periodic review of the State's program.

III. STATE PROGRAM REVIEW

The EPA will assess the State administration and enforcement of the hazardous waste program on an ongoing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of enforcement. This assessment will be accomplished by EPA's routine engagement with DEQ management and staff as well as review of program information submitted by the State in accordance with this Agreement, the State Grant work plan, permit overview, program information and activities, and compliance and enforcement overview, including the SRF process. The EPA may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from the regulated community, the public, and Federal, State, tribal and local agencies. Copies of any such comments received by the EPA will be provided to the State.

¹ These policies and guidance include, at a minimum, the OSWER Consolidated Guidance; the Office of Enforcement and Compliance Assurance's National Program Manager Guidance; RCRA Civil Penalty Policy dated June 2003; National Criteria for a Quality Hazardous Waste Program; revised Hazardous Waste Civil Enforcement Response Policy (December 2003); and the EPA Policy on Performance Based Assistance (May 31, 1985); and the May 1, 1996 Advanced Notice of Proposed Rulemaking for the Corrective Action Program, Setting Customer Service Standards (E.O. 12862, September 11, 1993); Improving Customer Service (Fred Hanson, April 8, 1998); Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations (E.O. 12892, February 11, 1994); EPA OSWER Environmental Justice Action Agenda (EPA 540/R-95/023, 1995).

Except for those documents protected by attorney client privilege pursuant to Idaho Rule of Evidence 502, Idaho Code § 9-203, or otherwise subject to protection as attorney work product pursuant to Idaho Rules of Civil Procedure 26(b)(3), the State shall allow EPA to routinely review State records, reports, and files relevant to the administration and enforcement of the authorized program. EPA agrees that all requests for information will be coordinated in advance when possible. Coordination will not subject EPA to State FOIA requirements.

Quarterly meetings between the State and the EPA will be scheduled to review specific operating procedures and schedules, to resolve problems and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless mutually agreed to differently. A tentative agenda for the meeting will be prepared and distributed prior to the meeting.

The State and EPA agree to develop, on an annual basis as a part of the State grant work program, criteria for priority activities, including activities regarding handlers of hazardous waste. These criteria will be based on guidance issued by EPA in the annual National Program Manager Guidance, other guidance documents as may be appropriate, and State specific concerns, and will serve to identify those activities which should receive the highest priority during the grant period.

IV. INFORMATION SHARING

A. General

This Section covers information sharing on miscellaneous elements of the RCRA program, including notification, RCRAInfo data, etc. Specific information sharing requirements for the other major program elements are covered in their respective Sections: V. Permit Issuance, VI. Permit Administration, and VII. Compliance Monitoring and Enforcement. Detailed tables describing the flow of documents between the State and EPA for Sections V., VI., and VII. of the Agreement are included at the end of this document as Appendix A, B, and C. As the respective information needs of the State and EPA evolve, these Appendices will be updated. During the periodic review of this Agreement the State and the EPA will carefully examine the information sharing requirements for needed revision.

Information related to Sections V. and VI., Permitting, and Section VII., Enforcement, shall be sent by the State to EPA. EPA shall send permit and enforcement related information associated with facilities under the State's jurisdiction to the State to the extent provided under applicable statutes or regulations.

1. EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to the State. As needed, EPA will share with the State any reports developed by EPA from the data submitted through State reporting requirements.
2. EPA will make available to the State other relevant information as requested which the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2.
3. The State agrees to inform the EPA of any proposed program changes which would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement

or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). Program changes also include legal changes that would affect compliance monitoring and enforcement, such as privileges and immunities laws. The State recognizes that program revisions must be made in accordance with the provisions of 40 CFR 271.21, and that until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements. Revisions to state law will be enforced under State laws and authority but may not operate in lieu of the provisions of federal law until such time, if any, as EPA has approved and authorized such revisions. EPA recognizes that the State is obligated to comply with statutory requirements under State law. EPA agrees to support the State with timely review of proposed State legislation that might have a significant potential to affect the authorized hazardous waste program.

4. Except for documents and information protected by attorney client privilege pursuant to Idaho Rule of Evidence 502 and Idaho Code § 9-203 or otherwise subject to attorney work product pursuant to Idaho Rules of Civil Procedure 26(b)(3), the State agrees to provide any pertinent information requested by the EPA, within a mutually agreed upon time frame, as necessary for EPA to carry out its RCRA authorities and oversight responsibilities.
5. The State agrees to submit the following reports and documents to the EPA within the specified time periods:
 - a) quarterly reports on the dates set in the Grant work plan, and b) additional reports and documents as specified in the Grant work plan.
6. The State agrees to provide EPA with a copy of any decisions regarding requests made by hazardous waste handlers to change their classifications (e.g., requests to be deleted as generators but to retain facility status) and facility requests to make on-site changes prior to permit issuance (e.g., requests to handle additional wastes not identified on the facility's original notification and RCRA Part A Permit Application) in accordance with the document flow charts of Appendix A, B, and C.
7. EPA agrees to adhere to the schedules set forth in the Grant and the schedules specified by the Grant work plan, including the Document Flow Tables.

B. Site Visits

In relationship to information sharing, EPA Headquarters (HQ) is responsible for maintaining reliable national data on hazardous waste management. This data is used to report to the President and Congress on the achievements of the hazardous waste program and to support EPA's regulatory development efforts. Whenever EPA HQ determines that it needs to obtain certain information, under most circumstances EPA HQ will first seek to gain this information from the States through the EPA Regions. The State of Idaho agrees to supply the EPA with this information if readily available and as resources allow in accordance with section IV(A)(4) herein. If the State is unable to provide the information or if it is necessary to supplement the State information, EPA HQ may conduct a special survey or perform information collection site visits after notifying the State (normally with at least seven days' advance notice) and inviting the State to participate in the site visit. EPA Region 10 will share with the State any final reports developed by EPA HQ as a result of such information collection.

C. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health or the environment, the party in receipt of such information shall immediately notify by telephone the Idaho Emergency Response Communication center at 1-800-632-8000.

D. Confidentiality

1. Subject to the provisions of section IV.A.4 herein, regarding attorney client privilege and attorney work product protection, any information obtained or used in the administration of the State program shall be available to EPA. If the information has been submitted to the State under a claim of confidentiality, the State must submit said information to EPA in a manner reasonably anticipated to place EPA on notice of such claim of confidentiality. EPA agrees not to disclose, copy, reproduce or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary or confidential information without consent of the State except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S.C. 552) and EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.
2. EPA agrees to furnish to the State information in its files which is not attorney-client privilege, deliberative process, enforcement confidential, personal information, attorney work product, or otherwise exempt under federal law, and which the State needs to implement its program. Subject to the conditions in 40 CFR Part 2, EPA will furnish to the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. The State will handle such information in accordance with the Idaho Public Records Act, Idaho Code § 74-101 et seq.

E. Delisting

The State shall send a copy of any delisting petition, and all subsequent revisions, to EPA within 15 days of receipt. Please consult the Enforcement and Compliance document flow table (Appendix C) attached to this agreement, which contains additional information on delisting documents the State will share with EPA.

F. Notification

EPA and the State have jointly decided that the State will assign all EPA RCRA Identification (RCRA ID) numbers and enter all notification data into RCRAInfo. If the applicant sends a notification form (8700-12 or equivalent) directly to EPA, EPA will forward the form to the State for the assignment of a RCRA ID number within 30 days of receipt. If the State receives a notification form from EPA or from the applicant, the State will assign a RCRA ID number to the applicant and inform the applicant of its number.

G. Variances and Waivers

The State agrees to provide EPA with a copy of each proposed variance and waiver at the time the application is received. Within 45 days of receipt, EPA may review and comment on any proposed variance or waiver. The State agrees to halt any proposed action, within the 45-day comment period, if EPA determines that the proposed variance or waiver is inconsistent with the State's authorized program. This 45-day comment period

can be shortened on a case by case basis by mutual consent. The State will transmit a copy of any public notices, variances, or waiver approvals to EPA within ten (10) days of issuance.

H. RCRA Data Management

1. The State agrees to use, maintain, and enter data into the national RCRA data management system (currently RCRAInfo).
2. The State and EPA share one RCRAInfo database. The State and EPA Region 10 are each responsible for the correctness of the data entered by their respective agencies.
3. The State will enter all required RCRA Core data into RCRAInfo on a monthly basis and may submit or enter additional data as agreed between EPA and the State.
4. The State will collect, quality assure, and load Biennial Reporting (BR) data into RCRAInfo according to the schedule promulgated by EPA HQ and the schedule in the Grant work plan.
5. EPA will inform the State promptly when changes are made to RCRAInfo that might affect the State's implementation of RCRA. EPA will assist the State by consulting on questions regarding RCRAInfo and also provide training, as resources allow.
6. As resources allow, EPA will assist the State in developing RCRAInfo reports.
7. Neither the State nor EPA will unilaterally alter the RCRAInfo database application in any way without advance consultation with, and agreement of, the other party.
8. As the owner of the RCRAInfo database application, EPA HQ has the right to choose and change hardware and software platforms to optimize system efficiency, but will do so in consultation with the regions and states in such a way as to not negatively affect the RCRAInfo database structure, access to the RCRAInfo reporting functions, or the ability to update RCRAInfo with new data. DEQ has no financial obligation for RCRAInfo (including Biennial Report applications) or any future upgrades that EPA HQs may implement or require.

V. PERMIT ISSUANCE

A. EPA Permitting

The State is authorized to issue RCRA permits at all facilities located in the State of Idaho except those within "Indian country." If EPA promulgates standards for additional regulations mandated by HSWA, that are not covered by the State's authorized program, EPA may issue and enforce RCRA permits in the State for these new regulations until the State receives final authorization for equivalent and consistent State standards. If EPA promulgates new standards requiring a permit modification, then EPA may, pursuant to 40 CFR 270.42(b)(6)(vii), extend the time period for final approval or denial of a modification request until such time that the State receives authorization for the new standards. At the time the State program is approved in the new areas, EPA will suspend issuance of Federal permits in the State.

B. EPA Oversight of State Permits

While EPA may comment on any permit application or draft permit, EPA's oversight function will focus primarily on those facilities identified by the State and EPA in the Grant work plan and those sites which are referred to EPA by the State.

EPA may comment in writing on any draft permit or proposed permit modification, within forty-five days of its receipt, whether or not EPA commented on the permit application. Where EPA indicates in a comment that issuance, modification, reissuance, termination or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- a. A statement of the reasons for the comment (including citation to the section of the State or federal law or regulations that supports the comment), and
- b. The actions that should be taken by the State to address the comment (including the conditions which the permit would include if it were issued by EPA).

The State and EPA will strive to reach concurrence on permit conditions prior to issuance of the permit or approval of proposed permit modifications. The State and EPA agree to meet or confer, within the permit review period, whenever necessary to resolve a disagreement on the terms of any State-issued permit. EPA shall withdraw such comments if satisfied that the State has met its concerns. The State agrees to consider all comments EPA makes on permit applications and draft permits. The State will meet or refute EPA's concerns on a particular permit application, proposed permit modification, or draft permit in writing before issuing the permit or making the modification.

Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions set forth in 40 CFR 271.19(e).

C. State Permitting

The State is responsible for expeditiously drafting, circulating for public review and comment, issuing, modifying, reissuing, and terminating RCRA permits for those hazardous waste treatment, storage, and disposal facilities subject to the authorized provisions of the State's program and shall do so in a manner consistent with RCRA as amended by HSWA, this Agreement, all applicable Federal and State requirements, and the State's Program Description. In accordance with Idaho Code § 39-4409(2), upon authorization, interim status or final permits issued by EPA prior to State authorization shall be adopted as State interim status final permits until DEQ issues a new State permit. The State agrees to issue, modify, and reissue all permits subject to the authorized portions of the State's program in accordance with the applicable provisions of IDAPA § 58.01.05.013, the Idaho Administrative Procedures Act, Idaho Code §§ 67-5240-5279, Idaho Department of Environmental Quality Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA §§ 58.01.23, et seq. and to include as permit conditions all applicable provisions of IDAPA §§ 58.01.05, et seq.

The State agrees that any compliance schedule contained in any permit issued will require compliance with applicable standards within a specified time period.

VI. PERMIT ADMINISTRATION

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Agreement in accordance with 40 CFR 271.13(d), and to modify, or revoke and reissue, such permits as necessary to require compliance with the amended State Program. The State shall notify EPA of any permits not equivalent to federal permit requirements, including any permits that have been issued but are pending administrative or judicial appeal. Except for these non-equivalent permits, once EPA has

determined that the State has fulfilled the requirements of 40 CFR 271.13(d), EPA will terminate the applicable Federal permit, or Federal portion of the permit, pursuant to the procedures in 40 CFR 124.5(d), notify the State that the permit is terminated, and no longer administer those permits or portions of permits for which the State is authorized.

Where the State permit is not equivalent to federal permit requirements, the State may modify, or revoke and reissue, its permit as necessary to require compliance with its authorized program in a manner consistent with RCRA as amended by HSWA. If the State does not modify, or revoke and reissue, a permit equivalent to the federal permit, EPA will administer and enforce its permit until it expires or is terminated.

Upon the effective date of an equivalent State permit, EPA will terminate the federal permit pursuant to 40 CFR 271.8(b)(6) and 124.5(d). EPA will notify the permittee by certified mail of its intent to terminate the federal permit, and give the permittee 30 days in which to agree or object to termination of the permit.

The State agrees to resolve all State permit appeals in a manner consistent with its authorized RCRA program.

VII. COMPLIANCE MONITORING AND ENFORCEMENT

A. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste program or believed to have a release of hazardous waste or constituent. Before conducting a civil compliance inspection of a generator, transporter or facility, the EPA will normally give the State at least seven days' notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i). In case of an imminent hazard to human health or the environment, the EPA may shorten or waive the notice period. EPA agrees to make available to the State copies of any reports and data resulting from compliance inspections at facilities under the State's jurisdiction within a reasonable time from completion of the inspections in accordance with the confidentiality agreement (IV.D.2) between the State and EPA to the extent provided under applicable statutes or regulations. No such notice is required for criminal enforcement actions undertaken by the EPA.

The frequency of EPA oversight and lead inspections will be specified in the State grant work plan. EPA will negotiate on an annual basis with the State the number or percentage of the State's compliance inspections on which EPA will accompany the State as well as which inspections EPA will be the lead agency.

The EPA may take enforcement action against any person determined to be in violation of RCRA. EPA may also take civil enforcement action upon determining that the State has not taken timely and appropriate enforcement action or upon request by the State. Prior to issuing a compliance order under section 3008(a) EPA will give notice to the State pursuant to 3008(a)(2). EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

After notice to the State, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that the EPA, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

B. State

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. National compliance monitoring activities and priorities will be specified in the Office of Enforcement and Compliance Assurance's annual National Program Manager Guidance as well as the annual State grant work program and shall be consistent with all applicable Federal requirements and with the State's Program Description. State specific activities and priorities for compliance monitoring will also be included in the annual grant work plan.

The State agrees to take timely and appropriate enforcement action as defined in the December 2003 Hazardous Waste Civil Enforcement Response Policy against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

Subject to the provisions of section IV.A.4 herein, the State agrees to provide EPA with copies of reports resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies. The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case, all records will be retained until three years from the date such action is resolved.

VIII. AVAILABILITY OF INFORMATION

A. General

Section 3006(f) of RCRA requires an authorized state to provide for the public availability of information obtained by the state regarding facilities and sites for treatment, storage, and disposal of hazardous waste. Such information must be available to the public in substantially the same manner as, and to the same degree as, that available under federal law.

B. Public Requests for Information

1. After a determination that this information is available for disclosure under the Idaho Public Records Act, Idaho Code §§ 74-101, et seq., the State agrees to make certain materials routinely available to the EPA without a formal information request. Examples of these materials are final opinions or orders in case adjudication, State regulations, statements of Agency policy, and administrative staff manuals affecting the public. In addition, records prepared for routine public distribution will also be made available. Examples of such records are press releases, copies of speeches, pamphlets, and educational materials.
2. The State agrees to make reasonable efforts to assist a requestor in identifying records being sought, and to help the requestor formulate his or her request.
3. If a request for information is denied, the State agrees to provide the requestor the basis for the denial and to notify the requestor of any State judicial, administrative procedures, or statutes of limitation in accordance with the Idaho Public Records Act, Idaho Code §§ 74-101, et seq.

4. The State agrees to make the fullest possible disclosure of records to the public, except where the record could qualify for any of the exemptions under the Idaho Public Records Act, Idaho Code § 74-101, et seq. or under the Federal Freedom of Information Act, 5 U.S.C 552(a)(2), if such exemption is recognized by the State.
5. A reduction or waiver of fees will be considered in connection with each request from a representative of the press or other communication medium, or from a public interest group. The State agrees to reduce or waive the fee if it determines that a reduction or waiver of the fee is in the public interest because furnishing the information can be considered as primarily benefitting the general public.

C. Confidentiality of Business Information

Pursuant to the Idaho Public Records Act, Idaho Code §§ 74-101, et seq., the State agrees to manage information submitted under a claim of confidential business information or trade secret in a manner consistent therewith and to determine whether a record that has been marked as confidential business information or trade secret constitutes confidential business information or a trade secret pursuant to Idaho Code § 74-114.

D. Information on the Authorized Program

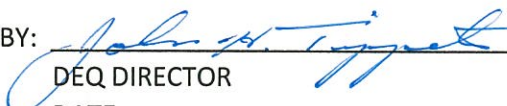
The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities, as applied to section 3006(f).

IX. DISCLAIMER

This Agreement does not create any right or benefit, substantive or procedural, enforceable by law or equity, against the State or EPA, their officers or employees, or any other person. This Agreement does not apply to any person other than the State of Idaho and EPA

STATE OF IDAHO
DEPT. OF ENVIRONMENTAL QUALITY

US ENVIRONMENTAL PROTECTION AGENCY
REGION 10

BY: 
DEQ DIRECTOR
DATE:

BY: 
REGIONAL ADMINISTRATOR
DATE: 11/30/17

Nov. 14, 2017

**APPENDIX A
BASE PERMITTING DOCUMENT FLOW
BETWEEN EPA AND IDAHO DEQ¹**

Item	Item Description	State Action ²	EPA Action ^{3,4}
1	New/revise Part A application	Copy to EPA	Review, file
2	Part B Permit application	Copy to EPA within 30 days of receipt	Review and comment, file
3	Draft permits/permit modifications and all associated fact sheets and public notices	Send to EPA 30 days before start of public comment period	Review and comment within 30 days or as negotiated, file
4	Final permits/permit modifications; response to comments; statement of basis or fact sheet; any technical justification relating to permit issuance	Copy to EPA	Review, file
5	Emergency permits	Copy to EPA	File, review upon request
6	Closure Plan, associated NODs and public notices	Copy to EPA	Review, file
7	Closure acceptance letter	Copy to EPA	File
8	Permit Termination/Denial	Copy to EPA	Review, file
9	All Public Notices	Copy to EPA	Review, file
10	Other, at DEQ request ⁵	Per DEQ schedule	Assist DEQ to maximum extent possible

¹ Table applies to all permits/permitted facilities which are subject to the authorized hazardous waste program in Idaho.

² If DEQ knows or suspects there may be controversy or a potential precedent-setting issue(s) associated with a permit or other document, DEQ will inform EPA as soon as possible. DEQ and EPA may consult to inform EPA's decision regarding whether to conduct a review. All number of days referred to for state actions are calendar days in the above table.

³ DEQ may request an EPA review or EPA may choose to conduct a review. EPA may comment on any document it reviews and will inform DEQ that there will be comments as soon as possible. Generally, the decision for EPA to review will be determined during the quarterly meetings, but may also be amended based on new information, cursory review of a document, or other circumstances. Should EPA conduct a review, DEQ will copy subsequent submittals and correspondence relating to the document (e.g., NODs, revised part B, revised permit, etc.) to EPA.

⁴ DEQ and EPA may negotiate timing during the quarterly meetings with updates as necessary. Default EPA review time for documents is 30 calendar days from receipt by the EPA office.

⁵ It is not necessary to send documents which are not identified on this table to EPA, unless specifically requested by EPA or unless DEQ requests EPA review.

To save resources, as well as time and money, electronic transfer of documents is encouraged.

**APPENDIX B
CORRECTIVE ACTION DOCUMENT FLOW
BETWEEN EPA AND IDAHO DEQ¹**

Item	Item Description	State Action ²	EPA Action ^{3,4}
1	Draft RFA Reports generated by State	Copy to EPA	Review and comment to State or tell State that EPA will not review within 30 days
2	Final RFA Reports sent to facilities	Send to EPA in draft form when sent to facility for comment	Review if EPA commented on draft, file
3	Final EI evaluation forms and NCAPS worksheets	Send to EPA	Review, file
4	Draft Corrective Action orders	Send to EPA in draft final form 30 days prior to issuance/public notice	Review and comment within 30 days or as negotiated, file
5	Final Corrective Action orders, revisions	Copy to EPA	Review, file
6	Remedy Selection documents, including Statement of Basis, permit modification, order, etc.	Copy to EPA	Review and comment, file
7	Corrective Action Completion determinations/No Further Action determinations	Copy to EPA	Review, file
8	All Public Notices	Copy to EPA	Review, file
9	Other, at DEQ request ⁵	Per DEQ schedule	Assist DEQ to maximum extent possible

¹ Table applies to all corrective action facilities which are subject to the authorized hazardous waste program in Idaho.

² If DEQ knows or suspects there may be controversy or a potential precedent-setting issue(s) associated with an action or document, DEQ will inform EPA as soon as possible. DEQ and EPA may consult to inform EPA's decision regarding whether to conduct a review. All number of days referred to for state actions are calendar days in the above table.

³ DEQ may request an EPA review or EPA may choose to conduct a review. EPA may comment on any document it reviews and will inform DEQ that there will be comments as soon as possible. Generally, the decision for EPA to review will be determined during the quarterly meetings, but may also be amended based on new information, cursory review of a document, or other circumstance. Should EPA conduct a review, DEQ will copy subsequent submittals and correspondence relating to the document (e.g., revised EI, revised Order, etc.) to EPA.

⁴ DEQ and EPA may negotiate timing during the quarterly meetings with updates as necessary. Default EPA review time for documents is 30 calendar days from the date of receipt by the EPA office.

⁵ It is not necessary to send documents which are not identified on this table to EPA, unless specifically requested by EPA or unless DEQ requests EPA review.

To save resources, as well as time and money, electronic transfer of documents is encouraged.

**APPENDIX C
ENFORCEMENT AND COMPLIANCE DOCUMENT FLOW
BETWEEN EPA AND IDAHO DEQ**

Item	Item Description	State Action 1	EPA Action2
1	List of all facilities / TSDFs / significant generators that State will inspect each quarter/year	Send list to EPA prior to start of quarter / year	Review list and notify State which facilities EPA will inspect
2	Notice of Intent to receive hazardous waste from a foreign source pursuant to 40 CFR 265.12	Send copy to EPA upon receipt / within 5 days of receipt	Region review and take action as necessary
3	Notification to State that EPA will take enforcement action	Receive notification	Notification prior to issuing 3008(a) in writing
4	Notification to EPA of any determination that a CERCLA off-site facility is a SNC or may be posing significant threat to public health, welfare or the environment or otherwise affect the satisfactory operation of the facility.	State notifies EPA within 5 days of determination	EPA reviews per off-site rule, consults with State, and takes appropriate action
5	For all TSDFs receiving CERCLA off-site waste, Inspection Reports, NOVs, Orders, Civil and/or Criminal actions and corrective action requirements when significant RCRA violations occur and a formal enforcement response is initiated.	State will send to EPA within 15 days of issuance	EPA reviews per off-site rule, consults with State, and takes appropriate action
6	Delisting Petitions, Draft and final delisting decisions, where State is authorized for delisting	Petitions – send copies to the EPA within 15 days of receipt. Send draft decisions to the EPA 30 days before public notice, send final decision to EPA 15 days before mailing to applicant	EPA will review and provide comments to State within 30 days of receipt of draft decision,
7	Citizen concerns referred to State by EPA	State investigates	EPA refer to State

¹ All number of days referred to for state actions are calendar days in the above table.

² Default EPA review time for documents is 30 calendar days from the date of receipt by the EPA office.

To save resources, as well as time and money, electronic transfer of documents is encouraged.

ADDENDUM #1

E-MANIFEST COMMUNICATION AND ACTION ACKNOWLEDGMENT

BETWEEN EPA AND IDAHO DEQ

On October 5, 2012, the President signed the Hazardous Waste Electronic Manifest Establishment Act authorizing a fee-funded electronic reporting program for entities transporting hazardous wastes that are regulated pursuant to the Resource Conservation and Recovery Act. E-Manifest will deploy with the functionality to submit, edit, and sign manifests through a web application and through a system-to-system data exchange. In addition, users will be able to submit paper manifests for manual entry into the e-Manifest system. E-Manifest aligns with the ongoing E-Enterprise initiative. Working together in collaborative leadership, EPA, the states and tribes are simplifying, streamlining, and modernizing the implementation of environmental programs.

This addendum acknowledges and documents the EPA and Idaho's efforts to successfully launch E-Manifest by June 2018. To ensure a successful launch, both parties will work together to provide clear and consistent communication to internal and external stakeholders, the regulated community, and the public. This will include education, outreach, and training of E-Manifest users. Idaho will also be an active participant in the EPA-led Regional E-Manifest Implementation Workgroup, will provide appropriate points of contact at both agencies to assist with E-Manifest implementation, and will help to troubleshoot issues as appropriate.