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Brad Little, Governor
Jess Byrne, Director

DEQ POLICY STATEMENT
PS26-03

ACCESS TO PRIVATE PROPERTY

Purpose

To establish an Idaho Department of Environmental Quality (DEQ) policy for accessing private property in a manner that protects private property rights, complies with the Property Rights Protection Act, and enables DEQ to fulfill its constitutional and statutory responsibilities.

Definitions

Government Agent—Any employee or representative of the State of Idaho, any political subdivision thereof, or the federal government, acting in an official capacity.

Private Land—Any privately owned real property, not including any place of habitation or the associated curtilage (area immediately surrounding or associated with a home), where a person knows or has reason to know that the person's presence is not permitted.

Lawful Consent—Although not defined in the Property Rights Protection Act, lawful consent can be defined as permission granted by the property owner or lessee to provide access to private property.

Exigent Circumstances—Emergency situations where immediate action is necessary to protect life, health, or property (situations that would typically necessitate calling 911).

Background

During the 2026 legislative session, the Idaho Legislature enacted the Property Rights Protection Act, establishing the legal framework governing government access to private property.

The Act establishes requirements governing government access to private property. Government agents may not enter private land that is not open to the public unless they have a valid search warrant, exigent circumstances exist, or they have obtained lawful consent from the property owner or lessee. The Act also restricts the circumstances under which a

government agent may approach a residence and requires an agent to leave private property at the request of the owner or occupant, unless otherwise authorized by law. In addition, the Act authorizes a civil penalty of up to $1,000 against a government agent who knowingly violates its provisions.

Statement of Policy

It is the policy of DEQ to respect private property rights while fulfilling its responsibilities to protect human health and the environment.

DEQ personnel whose activities require entering private property owned by other parties must have proper authorization before entering. The initial contact with property owners or lessees (renters) shall be in advance so delays are avoided while permission is being secured. The owner or lessee shall be given a general idea of what work is to be undertaken. If the property owner or lessee is represented by an attorney, all contact shall be through the attorney.

DEQ personnel shall not enter private property unless authorized by:

- Lawful consent of the property owner, lessee;
- If the owner or lessee is a business entity, lawful consent of an officer, manager or authorized representative that has the authority to give consent on behalf of a business;
- A valid court order or search warrant when applicable; or
- Exigent circumstances or other authority recognized by law.

DEQ employees shall:

- Always respect private property rights.
- Seek landowner or lessee permission whenever required.
- Make reasonable efforts to coordinate access with landowners.
- Limit access to the minimum area, duration, and scope necessary to accomplish the authorized purpose.
- Conduct activities in a manner that minimizes impacts to private property.
- Maintain documentation of written or verbal authorization when permission is obtained.

If permission is denied and no independent legal authority exists for entry, employees shall not enter the property. The matter shall be elevated through the supervisory chain to determine whether the activity can proceed without access or whether legal remedies should be considered. DEQ will track these instances by using the Private Property Access Incident Report on the internal employee Intranet.

DEQ's highest priority is the safety of its employees. Accordingly, employees upon discovering unintentional entry or who are directed to leave by the property owner or lessee, shall immediately exit the property unless otherwise authorized by law.

Nothing in this policy shall limit DEQ's authority to respond to exigent/emergency circumstances as defined by the Property Rights Protection Act.

Responsibility

Leadership shall ensure implementation of this policy and provide direction when access limitations affect our ability to fulfill responsibilities.

Administrators shall:

- Ensure procedures comply with this policy.
- Identify program-specific access challenges.
- Elevate unresolved legal or operational issues to leadership, including pursuing administrative warrants.
- Identify statutory authorities applicable to program activities if appropriate.
- Address unintentional or incidental access to private property with leadership.

Supervisors shall:

- Ensure employees understand and comply with this policy.
- Provide guidance and seek assistance when situations arise.

Employees whose duties require entry onto property owned by others shall:

- Obtain appropriate authorization before entry.
- Notify landowners when required.
- Exercise reasonable care to avoid property damage.
- Restore gates, fences, and other improvements to their original condition following entry.
- Document permissions and maintain records consistent with DEQ procedures.
- Report denied access or circumstances that prevent completion of assigned responsibilities to supervisors and complete the Private Property Access Incident Report.

The Deputy Director is responsible for maintaining this policy.

Implementation

This policy is effective immediately and will remain in effect for 5 years unless amended, replaced, or rescinded prior to expiration.

Dated this 5th day of August, 2026

Jess Byrne Digitally signed by Jess Byrne
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Jess Byrne
Director, Idaho Department of Environmental Quality