
1. INTRODUCTION

Contents	Page
A. Purpose and Objectives	1-1
Inspection Types	1-1
B. Legal Authority for NPDES Inspections	1-5
Inspection Authority	1-5
State Program Authority	1-5
C. Responsibilities of the EPA NPDES Inspector	1-7
Indian Country Inspections	1-7
Legal Responsibilities	1-7
Procedural Responsibilities	1-8
Training Responsibilities	1-10
Safety Responsibilities	1-11
Professional Responsibilities	1-11
Quality Assurance Responsibilities	1-13
D. References	1-15

List of Tables

1-1. NPDES-Related Statutes and Regulations	1-6
1-2. Inspector's Responsibilities	1-9

Associated Appendices

- A. EPA Order 3500.1, Training and Development for Individuals who lead Compliance Inspections/Field Investigations
- B. EPA Order 1440.2, Health and Safety Requirements for Employees Engaged in Field Activities
- C. Revised Fact Sheet: Safety and Health Requirements for EPA Inspectors

Each of the above documents can be found at

["http://intranet.epa.gov/oeca/oc/campd/inspector/index.html"](http://intranet.epa.gov/oeca/oc/campd/inspector/index.html)

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1. A. Purpose and Objectives

Three objectives should be met during a routine compliance inspection. According to this section, the inspection should be performed in a manner designed to:

- Determine compliance status with regulations, permit conditions, and other program requirements
- Verify the accuracy of information submitted by permittees
- Verify the adequacy of sampling and monitoring conducted by the permittee.

Other purposes of compliance inspections include:

- Gathering evidence to support enforcement actions
- Obtaining information that supports the permitting process
- Assessing compliance with orders or consent decrees.

Inspection Types

This manual provides guidance applicable to each type of inspection a National Pollutant Discharge Elimination System (NPDES) inspector may be required to conduct at a NPDES permitted facility or an unpermitted facility with discharges. The different types of inspections are described below.

Compliance Evaluation Inspection (CEI)

The CEI is a nonsampling inspection designed to verify permittee compliance with applicable permit self-monitoring requirements, effluent limits, and compliance schedules. Inspectors must review records, make visual observations and evaluate treatment facilities, laboratories, effluents and receiving waters. During the CEI, the inspector must examine both chemical and biological self-monitoring, which form the basis for all other inspection types except the Reconnaissance Inspection.

Compliance Sampling Inspection (CSI)

During the CSI, NPDES permitted or unpermitted facilities, inspectors must take representative samples. Inspectors then verify the accuracy of the permittee's self-monitoring program and reports through chemical and bacteriological analysis; determine compliance with discharge limitations; determine the quantity and quality of effluents; develop permits; and provide evidence for enforcement proceedings where appropriate. In addition, the CSI includes the same objectives and tasks as a CEI.

Performance Audit Inspection (PAI)

The inspector conducts a PAI to evaluate the permittee's self-monitoring program. As with a CEI, the PAI verifies the permittee's reported data and compliance through a records check. However, the PAI provides a more resource-intensive review of the permittee's self-monitoring program and evaluates the permittee's procedures for sample collection, flow measurement, chain-of-custody, laboratory analyses, data compilation, reporting, and other areas related to

the self-monitoring program. In a CEI, the inspector makes a cursory visual observation of the treatment facility, laboratory, effluents, and receiving waters. In a PAI, the inspector observes the permittee performing the self-monitoring process from sample collection and flow measurement through laboratory analyses, data workup, and reporting. The PAI does not include the collection of samples by the inspector. However, the inspector may require the permittee to analyze performance samples for laboratory evaluation purposes.

Compliance Biomonitoring Inspection (CBI)

This inspection includes the same objectives and tasks as a CSI. A CBI reviews a permittee's toxicity bioassay techniques and records maintenance to evaluate compliance with the biomonitoring terms of the NPDES permit and to determine whether the permittee's effluent is toxic. The CBI also includes the collection of effluent samples by the inspector to conduct acute and chronic toxicity testing to evaluate the biological effect of a permittee's effluent discharge(s) on test organisms.

Toxics Sampling Inspection (XSI)

The XSI has the same objectives as a conventional CSI. However, it places increased emphasis on toxic substances regulated by the NPDES permit. The XSI covers priority pollutants other than heavy metals, phenols, and cyanide, which are typically included in a CSI (if regulated by the NPDES permit). An XSI uses more resources than a CSI because sophisticated techniques are required to sample and analyze toxic pollutants. An XSI may also evaluate raw materials, process operations, and treatment facilities to identify toxic substances requiring controls.

Diagnostic Inspection (DI)

The DI primarily focuses on Publicly Owned Treatment Works (POTWs) that have not achieved permit compliance. POTWs that are having difficulty diagnosing their problems are targeted. The purposes of the DI are to identify the causes of noncompliance, suggest immediate remedies that will help the POTW achieve compliance, and support current or future enforcement action. Once the cause of noncompliance is defined, an administrative order is usually issued that requires the permittee to conduct a detailed analysis and develop a composite correction plan.

Reconnaissance Inspection (RI)

The RI is used to obtain a preliminary overview of a permittee's compliance program. The inspector performs a brief visual inspection of the permittee's treatment facility, effluents, and receiving waters. The RI uses the inspector's experience and judgement to summarize quickly any potential compliance problems. The objective of the RI is to expand inspection coverage without increasing inspection resources. The RI is the briefest and least resource intensive of all NPDES inspections.

Pretreatment Compliance Inspection (PCI)

The PCI evaluates the POTW's implementation of its approved pretreatment program. It includes a review of the POTW's records on monitoring, inspections, and enforcement activities for its industrial users (IUs). The PCI may be supplemented with IU inspections. An IU inspection is an inspection of any significant IU that discharges to the POTW. The inspection can include sampling or not, depending on the reason for the inspection. If feasible, inspectors should conduct the PCI concurrently with another NPDES inspection of the POTW. Additional guidance is available in EPA's *Guidance for Conducting a Pretreatment Compliance Inspection* (September 1991).

It should be noted that a related type of review procedure, the pretreatment audit, is also performed by Approval Authorities. The pretreatment audit is not treated in depth in this manual because it is not regarded as a true NPDES compliance inspection. The pretreatment audit is defined and discussed in Section 1.2, page 1-1, of EPA's guidance manual *Pretreatment Compliance Inspection and Audit Manual for Approval Authorities* (July 1986) and the *Control Authority Pretreatment Audit Checklist and Instructions* (May 1992).

Follow-up Inspection

The follow-up inspection is a resource intensive inspection conducted when an enforcement problem is identified as a result of a routine inspection or a complaint. For a follow-up inspection, the appropriate resources are assembled to deal effectively with a specific enforcement problem.

Sewage Sludge Inspection

The objectives of a sewage sludge inspection are to determine compliance with Federal 503 sludge regulations for any facility engaged in a regulated sludge or disposal practice and to evaluate the permittee's compliance with sludge monitoring, recordkeeping and reporting, treatment operations, and sampling and laboratory quality assurance. The PCI, CEI, and PAI are the most likely vehicles for evaluating compliance with sludge requirements.

Storm Water Inspection

Storm water inspections are designed to ensure that regulated facilities have a NPDES permit for storm water discharge and a Storm Water Pollution Prevention Plan (SWPPP) and are following the specifications in each. During the inspection, the inspector reviews the permit and the SWPPP and determines whether the SWPPP meets the requirements set forth in the permit. The inspector also reviews records, such as self-inspection reports, to verify that the facility is complying with its permit and the SWPPP and walks the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly.

Combined Sewer Overflow (CSO) Inspection

During a CSO inspection, the inspector evaluates compliance with CSO provisions present in the NPDES permit, an enforcement order, a consent decree, or another enforceable document. The inspector verifies that the permittee is preventing CSOs during dry weather, implementing the nine minimum CSO controls, adhering to a schedule for development, submission, and implementation of a Long-Term CSO Control Plan, eliminating or relocating overflows from sensitive areas, adhering to effluent limitations, and implementing a monitoring program.

Sanitary Sewer Overflow (SSO) Inspection

During an SSO inspection, the inspector evaluates compliance with SSO provisions present in the NPDES permit, an enforcement order, a consent decree, or another enforceable document. The inspector collects information to verify that the permittee is complying with the NPDES standard permit conditions (duty to mitigate and proper operation and maintenance) and the required notification procedures. The inspector also determines whether there have been any unpermitted discharges, or discharges from a location other than the discharge point specified in the permit, to waters of the United States.

Concentrated Animal Feeding Operation (CAFO) Inspection

The objective of this inspection is to evaluate a CAFO's compliance with permit requirements, permit conditions, applicable regulations, and other requirements. The three types of CAFO inspections are the Status Determination Inspection, the Permit Compliance Inspection, and the Settlement Agreement Inspection. The type of information that the inspector gathers depends on the type of CAFO inspection being conducted.

Summary

The inspector should plan all activities and coordinate with the appropriate compliance personnel in their office before the inspection. The type of inspection may serve as a basis for deciding what activities will be conducted onsite and for determining what additional information is to be gathered or verified during the inspection. Compliance personnel should choose the type of inspection to be conducted based on the compliance status of the facility, the information needed from the facility, and the type of facility involved. Note that some types of NPDES inspections may encompass several elements of the primary inspection types (e.g., a storm water inspection may encompass elements from both a CSI and a PAI).

1. B. Legal Authority for NPDES Inspections

The Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act (CWA or the Act) of 1977 and the Water Quality Act of 1987, gives EPA the authority to regulate the discharge of pollutants to waters of the United States. The Act provides broadly defined authority to establish the NPDES Permit Program, define pollution control technologies, establish effluent limitations, obtain information through reporting and compliance inspections, and take enforcement actions (both civil and criminal) when violations of the Act occur. Table 1-1 provides a listing of applicable NPDES statute and regulations.

Inspection Authority

Under Section 402 of the Act, point source dischargers of pollutants (e.g., municipal wastewater treatment plants, industries, animal feedlots, aquatic animal production facilities, and mining operations) facilities must apply and receive a permit that set specific limits and operating conditions to be met by the permittee. Section 308 authorizes inspections and monitoring to determine whether the facility is meeting the NPDES permit conditions. This section provides for two types of monitoring:

- Self-monitoring, where the facility must monitor itself
- Monitoring by EPA or the State, a process whereby the agency evaluates the self-monitoring and/or conducts its own monitoring.

According to the CWA, EPA may conduct an inspection, including storm water, sludge, combined sewer overflows, sanitary sewer overflows, concentrated animal feeding operations, or pretreatment, wherever there is an existing NPDES permit or where a discharge exists or is likely to exist and no permit has been issued.

State Program Authority

Much of the compliance with the NPDES program is monitored by the State. Sections 308 and 402 of the Act allow for the delegation of Federal program authority to States to conduct NPDES permit compliance monitoring, permit issuance, and permit enforcement; but EPA does not relinquish its control authority even when a program has been authorized to the State. EPA Regional Administrators and some State water pollution control agencies have signed formal cooperative agreements that ensure timely, accurate monitoring of compliance with permit conditions. States may implement requirements and regulations that are more stringent than those under the CWA.

Table 1-1
NPDES-Related Statutes and Regulations

Topic	Reference	
	<u>CWA</u> ¹	<u>40 CFR</u> ²
Inspection Authority	§308	122.41(i), 123.26
Self-Monitoring and Recordkeeping Authority	§308	122.41(h), (j), and (l), 122.48
Confidential Information	§308(b)	2.201, 2.215, 2.302, 122.7
Emergency Authority	§504	123.27
Employee Protection	§507	—
Permits	§402	122, 123.25
EPA Permitting Procedures	§402	124
Technical Requirements	§§301, 304, 307	129, 133, 136
Best Management Practices (BMP)	§304(e)	125
Spill Prevention Control and	§311	112
Countermeasure (SPCC) Plan Waivers	§301	125, 230
Effluent Guidelines	§304	405-471
Pretreatment Standards	§§307, 402(m)	122.21, 403, and 405-471
Biosolids	§405	60, 61, 123, 258, 501, and 503
¹ Clean Water Act ² Code of Federal Regulations, Revised as of July 1, 2002		

1. C. Responsibilities of the EPA NPDES Inspector

The primary role of a NPDES inspector is to gather information that can be used to determine the reliability of the permittee's self-monitoring data and evaluate compliance with permit conditions, applicable regulations, and other requirements. The NPDES inspector also plays an important role in case development and support. To fulfill these roles, inspectors are required to know and use policies and procedures for effective inspection and evidence collection; accepted safety practices; and quality assurance standards.

Indian Country Inspections

Each regional inspector should understand and apply the *EPA Policy for the Administration of Environmental Programs on Indian Reservations* (Indian Policy - November 8, 1984) www.epa.gov/indian/1984.htm and their region's policies and procedures when conducting inspections in Indian country. If the facility is in Indian country, the inspector should research this. If a facility is owned or managed by a tribal government or owned and managed by a private party, EPA generally will notify tribal governments in advance of visiting a reservation and EPA will inform the tribal government of the results each inspection. If advance notice is not possible due to circumstances beyond the control of the EPA inspector or if the visit involves an unannounced inspection, the tribal government should be contacted as soon as possible. EPA should address out-of-compliance facilities that are located in Indian country (and/or owned or managed by a tribal government) in a manner consistent with the Indian Policy, the *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy*, (January 17, 2001), The enforcement guidance is located at www.epa.gov/compliance/planning/tribal/index.html. Regions should also be familiar with the American Indian Environmental Office's website www.epa.gov/indian. EPA Indian program contacts are located at www.epa.gov/indian/miss.htm. They can help identify facilities in Indian country. Please be aware that while it is often very difficult to identify these facilities, EPA should still follow the applicable guidance vis-a-vis working with tribes.

Legal Responsibilities

Inspectors must conduct all inspection activities within the legal framework established by the Act, including:

- Presenting proper credentials
- Properly handling confidential business information.

Inspectors also must be familiar with the conditions of the specific permit, CWA, and regulations.

Procedural Responsibilities

Inspectors must be familiar with general inspection procedures and evidence collection techniques to ensure adequate inspections and to avoid endangering potential legal proceedings on procedural grounds.

Inspection Procedures

Inspectors should observe standard procedures for conducting each inspection element. The elements of the inspection process listed in Table 1-2 are common to most NPDES compliance inspections. They are grouped by the major inspection activities:

- Pre-Inspection Preparation
- Entry
- Opening Conference
- Facility Inspection
- Closing Conference
- Inspection Report.

Table 1-2

Inspector's ResponsibilitiesPre-Inspection Preparation.

- Establish purpose and scope of inspection.
- Review background information and EPA/State records, including permit and permittee compliance file.
- Develop plan for inspection.
- Prepare documents and equipment, including appropriate safety equipment.
- Coordinate schedule with laboratory if samples are to be collected.
- Coordinate schedule with other appropriate regulatory authorities.
- Contact party responsible for sample transportation, for packing/shipping requirements.
- Ensure state/tribe is notified of pending inspection.

Entry. Establish legal entry to facility.

- Identify self and present official credentials to the responsible official.
- If denied of entry call supervisor /ORC.

Opening Conference. Orient facility officials to inspection plan.

- Discuss inspection objectives and scope.
- Establish working relationship with facility officials.

Facility Inspection. Document compliance/noncompliance with permit conditions; collect evidence including photographs.

- Conduct visual inspection of facility.
- Review facility records.
- Inspect monitoring location, equipment, and operations.
- Collect samples, if appropriate.
- Review laboratory records for QA/QC.
- Review laboratory procedures to verify analytical methodology and use of approved methods.
- Document inspection activities.

Closing Conference. Conclude inspection.

- Collect additional or missing information.
- Clarify questions with facility officials.
- Prepare necessary receipts.
- Review inspection findings and inform officials of follow-up procedures.
- Issue deficiency notice, if appropriate.

Inspection Report. Organize inspection findings in a report with field notes, file, photographs, and other relevant information.

- Complete NPDES Compliance Inspection Report Form 3560.
- Prepare narrative report, checklists, and documentary information as appropriate.
- Sign and date the report

Evidence Collection

Inspectors must be familiar with general evidence-gathering techniques. Because the Government's case in a civil, criminal, or administrative enforcement action depends on the evidence gathered, inspectors must keep detailed records of each inspection. These notes and documentation will be used for preparing the inspection report, determining the appropriate enforcement response, and giving testimony in an enforcement case.

In particular, inspectors must know how to:

- Substantiate facts with items of evidence, including samples, photographs, document copies, statements from witnesses, and personal observations.
- Evaluate what evidence should be collected (routine inspections).
- Follow chain-of-custody procedures
- Collect and preserve evidence consistent with Chapter 5 – Sampling.
- Write clear, objective, and informative inspection reports

Inspection procedures are discussed in detail in Chapter Two of this manual.

Training Responsibilities

EPA Order 3500.1 establishes consistent EPA-wide training and development programs for employees leading environmental compliance inspections/field investigations to ensure that they have working knowledge of regulatory requirements, inspection methodology, and health and safety measures. Those who lead environmental compliance inspections/field investigations must be properly trained to perform these functions in a legally and technically sound manner. This Order applies to all Environmental Protection Agency (EPA) personnel who lead or oversee compliance inspections/field investigations on a full or part-time basis under any of EPA's statutes, and supervisors of compliance inspectors/field investigators. Training required by the Order consists of three parts: Occupational Health and Safety

Curriculum, Basic Inspector Curriculum, and Program-Specific Curriculum. (See Appendix A)

Safety Responsibilities

The inspection of wastewater and other environmental pollution control facilities always poses a certain degree of health and safety risk. To avoid unnecessary risks, the inspector should be familiar with all safety obligations and practices. The safety equipment and procedures required for an inspector will be based on either standard safety procedures or the facility response to the 308 (inspection notification) Letter. Inspectors should do the following:

- Use safety equipment in accordance with available guidance and labeling instructions.
- Maintain safety equipment in good condition and proper working order.
- Dress appropriately for the particular activity and wear appropriate protective clothing. For example, appropriate protective gloves should be worn during sample collection to protect the inspector and to prevent the potential for sample contamination. Disposable gloves are preferred to assure that no cross contamination occurs between sampling points.
- Use any safety equipment customary in the establishment being inspected (e.g., hard hat or safety glasses).
- Never enter confined spaces unless properly trained, equipped, and permitted (if applicable).

For any safety-related questions not covered in this manual, the inspector should comply with the facility's current approved safety requirements for greater detail if one is available. An inspector should look at Appendix B which contains the website: "<http://intranet.epa.gov/oeca/oc/campd/inspector/index.html>" to locate EPA's Order 1440.2, Health and Safety Requirements for Employees Engaged in Field Activities. Also, Appendix C contains a fact sheet on safety and health requirements for EPA inspectors.

Professional Responsibilities

Inspectors are expected to perform their duties with the highest degree of professionalism. Procedures and requirements ensuring ethical actions have been established through many years of Government inspection experience. The procedures and standards of conduct listed below have evolved for the protection of the individual and EPA, as well as industry.

- All inspections are to be conducted within the framework of the United States Constitution and with due regard for individual rights regardless of race, sex, religion, or national origin.
- EPA inspectors are to conduct themselves at all times in accordance with the regulations prescribing employee responsibilities and conduct.
- The facts of an inspection are to be noted and reported completely, accurately, and

objectively.

- In the course of an inspection, any act or failure to act motivated by reason of private gain is illegal. Actions that could be construed as such should be scrupulously avoided.
- A continuing effort should be made to improve professional knowledge and technical skill in the inspection field.

Professional Attitude

The inspector is a representative of EPA and is often the initial or only contact between EPA and the permittees. In dealing with facility representatives and employees, inspectors must be professional, tactful, courteous, and diplomatic. A firm but responsive attitude will encourage cooperation and initiate good working relations. Inspectors should always speak respectfully of any product, manufacturer, or person.

Attire

Inspectors should dress appropriately, including wearing protective clothing or equipment for the activity in which they are engaged.

Gifts, Favors, Luncheons

Inspectors may not accept favors, benefits, or job offers under circumstances that might be construed as influencing the performance of governmental duties. It is prudent to avoid even the appearance of compromising federal ethics statutes and regulations. If offered a bribe, the inspector must not accept money or goods. Since this act may violate federal laws, regulations and may also violate criminal statute, report the incident in detail as soon as possible to a supervisor and the Deputy Ethics Officials (DEO). A list of the DEOs is at intranet.epa.gov/ogc/ethics.htm - first left radio-button. If it appears that a federal criminal statute was violated, report this right away to the EPA's Office of the Inspector General. (OIG information is at www.epa.gov/oigearth/whoswho.htm)

The EPA website on ethics at intranet.epa.gov/ogc/ethics.htm contains extensive information on conflicts of interest, gifts and luncheons. It is recommended that each inspector go to the Resource Library section and review information in the Conflict of Interest (especially the 2002 Ethics Conference Materials), Gifts and Travel sections.

Note also that it is prudent for EPA inspectors to decline business luncheons while on EPA business. The inspector must pay his/her own fees for meals. When in doubt about a possible issue, contact a Deputy Ethics Official to clarify what can and cannot be accepted and report any possible infraction of the ethics statutes and rules. (See page 20, *U.S. EPA Guidance on Ethics and Conflict of Interest*, February 1984, and 5 *CFR* 2635, Standards of Ethical Conduct for Employees of the Executive Branch, January 1, 2001.)

Requests for Information

EPA has an "open-door" policy on releasing information to the public. This policy is to make information concerning EPA and its work freely and equally available to all interested

individuals, groups, and organizations. In fact, EPA employees have both a legal and traditional responsibility for making useful educational and safety information available to the public. This policy, however, does not extend to information about a suspected violation, evidence of possible misconduct, or confidential business information. The disclosure of information is discussed further in Chapter Two, Disclosure of Official Information.

Quality Assurance Responsibilities

The inspector must assume primary responsibility for ensuring the quality and accuracy of the compliance inspection and the integrity of samples collected. While other organizational elements play an important role in quality assurance, it is the inspector who must ensure that all data introduced into an inspection file are complete, accurate, and representative of existing conditions. To help the inspector meet this responsibility, Regional Offices have established quality assurance plans that identify individual responsibilities and document detailed procedures.

The objective of a quality assurance plan is to establish standards that will guarantee that inspection and analytical data meet the requirements of all users. Many elements of quality assurance plans are incorporated directly into the basic inspection procedures and may not be specifically identified as quality assurance techniques.

The inspector must be aware that following established inspection procedures are critical to the inspection program. These procedures have been developed to reflect the following quality assurance elements:

- Valid data collection
- Approved standard methods
- Control of service, equipment, and supplies
- Standard data handling and reporting.



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1. D. References

References

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