

NPDES Compliance Inspection Manual

Chapter 2



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CHAPTER 2 – INSPECTION PROCEDURES

Contents

A. Pre-Inspection Preparation.....	26
Review of Facility Background Information	26
Sources of Facility Background Information	29
Developing an Inspection Plan and/or Checklist.....	30
Developing a Health and Safety Plan	31
Notifying the Facility.....	31
Notifying state of Federal Inspection	32
Preparing Equipment and Supplies	32
B. Off-site Surveillance.....	34
Considerations.....	34
C. Entry	35
Entry Procedures	35
Problems with Entry or Consent	36
Warrants.....	38
D. Opening Conference	38
Considerations.....	38
E. Documentation.....	41
Inspector's Field Notebook.....	41
Samples	42
Interviews and Statements.....	42
Digital Images	44
Video.....	45
GPS	45
Drawings and Maps.....	45
Printed Matter.....	45
Electronic Records.....	45
Copies of Records.....	45
General Considerations.....	47
Confidential Business Information (CBI)	47
F. Closing Conference	50
G. Inspection Report	51
Objective of the NPDES Inspection Report	51
Effectively Communicate and Document Findings in the Inspection Report	52
Elements of a Report.....	54
Integrated Compliance Information System (ICIS).....	55
H. References.....	56

List of Tables

Table 2-1. Inspection Equipment List..... 33

Associated Appendices

- D. EPA’s Memorandum on Practices to Follow and Avoid When Requesting Information
- E. Sample CWA Section 308 Information Collection Request Letter (308 Letter)
- F. Final Fact Sheet: The Do’s and Don’ts of using U.S. EPA Credentials
- G. EPA’s Memorandum on Entry Procedures
- H. EPA’s Policy on the Use of Digital Cameras for Inspections
- I. EPA’s Memorandum on Deficiency Notice Guidance
- J. Inspection Conclusion Data Sheet (ICDS) Form
- K. Draft Guidance for Releasing Civil Inspection Reports

A. PRE-INSPECTION PREPARATION

Pre-planning is necessary to ensure that the inspection is focused and is conducted smoothly and efficiently. It involves the following activities:

- Reviewing facility background information
- Developing an inspection plan
- Developing a Quality Assurance Project Plan (QAPP) for sampling, if applicable
- Notifying the facility, if applicable
- Notifying the state, tribe, or POTW of the federal inspection, if applicable
- Preparing equipment

REVIEW OF FACILITY BACKGROUND INFORMATION

The Clean Water Act (CWA) and related NPDES regulations establish procedures, controls, and other requirements applicable to a facility. In addition, state regulations, and local ordinances may be applicable to the same facility. Therefore, collection and analysis of available background information on the candidate facility is essential for effective planning and overall success of a compliance inspection. Materials from available files, company websites, and other information sources can enable inspectors to familiarize themselves with facility operations, conduct a timely inspection, minimize inconvenience to the facility by not requesting data previously provided, conduct a thorough and efficient inspection, clarify technical and legal issues before entry, and develop a sound and factual inspection report.

Various types of information that may be available for review are listed below. The list is not intended to be exhaustive and all listed information may not be relevant for all inspections. The inspector should determine the amount of background information necessary for the inspection and focus on the characteristics unique to the facility (e.g., design, historical practices, legal requirements).

General Facility Information

- Maps showing facility location, drainage inlets, wastewater discharge pipes, sampling points, overflow and bypass points, and geographic features.
- Plant layout and process flow diagram.
- Names, titles, and telephone numbers of responsible facility officials.
- Any special entry requirements (e.g., security).
- Any safety requirements.
- Description of unit operations including design and operating data (e.g., design flow or capacity, typical operating flows, maintenance requirements), if available.
- Description of wastewater discharges (e.g., outfalls, discharge frequency, flowrate).
- Production levels—past, present, and future.
- Hydrological data.
- Geology/hydro-geology of the area.

- Changes in facility conditions since previous inspection/permit application.
- Available aerial photographs.

Requirements, Regulations, and Limitations

- Copies of existing permits and permit applications. Permits provide information on the limitations, requirements, and restrictions applicable to discharges; compliance schedules; and monitoring, analytical, and reporting requirements. Permit applications provide technical information on facility size, layout, and location of pollutant sources; treatment and control practices; contingency plans and emergency procedures; and pollutant characterization—types, amounts, applicability of effluent guidelines, and points/locations of discharge. Permit applications for air, solid, and hazardous waste treatment and disposal permits may provide additional information to the inspector that is not available elsewhere.
- Notices of intent (NOI), regulations, requirements, and restrictions placed on permittee discharges, including Spill Prevention Control and Countermeasure Plans (SPCC Plans) and Stormwater Pollution Prevention Plans (SWPPPs).
- Monitoring and reporting requirements and available monitoring stations.
- Special exemptions and waivers, if any.
- Documents required by SPCC Plans and SWPPPs, including inventories of Material Safety Data Sheets (MSDS), maintenance records, training manuals, and training documentation.
- Receiving stream water quality standards, the condition of the receiving stream (e.g., is the stream impaired and for what parameters), and any Total Maximum Daily Load (TMDL) evaluations for the receiving stream.
- Information concerning sludge, air, solid, and hazardous waste treatment and disposal.

Facility Compliance and Enforcement History

- Previous inspection reports, including local (municipal), state, and federal inspections.
- Correspondence among facility, local, state, and federal agencies.
- Complaints and reports, follow-up studies, findings, and remedial action.
- Documentation on past compliance violations, exceedances, status of requested regulatory corrective action, if any.
- Enforcement actions such as compliance schedules and consent orders.
- Status of current and pending litigation against facility.
- Self-monitoring data and reports.
- Previous EPA, state, or consultant studies and reports.
- Previous deficiency notices issued to the facility.
- Laboratory capabilities and analytical methods used by the facility.
- Name(s) of contract laboratories, if applicable.

- NPDES data including Discharge Monitoring Reports (DMR) and Quality Assurance (QA) files.
- Emergency Planning and Community Right to Know Act (EPCRA) data submittals.
- Reports from special studies (e.g., stream monitoring, internal audits) or compliance schedules.

Pollution Control and Treatment Systems

- Description and design data for pollution control or treatment systems (e.g., design flow or capacity, typical operating flows, maintenance requirements), if available.
- Sources and characterization of discharge.
- Type and amount of wastes discharged.
- Available routes for bypasses or diversions, and spill containment facilities.
- Pollution control units, treatment methods, and monitoring systems.

Pretreatment Information

- Information concerning compliance schedule to install technologies (industrial facilities) or develop a pretreatment program (Publicly Owned Treatment Works (POTWs)).
- Pretreatment reports as required by the NPDES permit and the General Pretreatment Regulations, regional, state, or local requirements.
- The POTW's Enforcement Response Plan and sewer use ordinance, including local discharge limits.
- POTW pretreatment procedures (e.g., sampling, inspection compliance evaluation, SNC).
- POTW annual reports.
- Information concerning industrial discharges to POTWs, such as:
 - Industrial monitoring and reporting requirements
 - POTW monitoring and inspection program
 - Waste contribution to the POTW
 - Compliance status of industry with pretreatment requirements
 - POTW enforcement initiatives

Chapter 9 of this manual discusses pretreatment program requirements in greater detail.

Municipal Separate Storm Sewer System (MS4)

- Legal authority
- Program procedures
- Reports to permitting authority
- A list of construction and industrial stormwater facilities within the MS4

SOURCES OF FACILITY BACKGROUND INFORMATION

Regional and State Files and Websites

EPA Regional Offices and state agencies maintain files that can provide the information listed below. In addition, many states maintain websites where permits and permit applications may be available.

- Compliance, enforcement, and litigation history including copies of inspection reports and citizen complaints and actions taken. Previous inspection reports can provide general facility information, as well as problems or concerns noted in previous inspections.
- Facility self-monitoring data.
- Quarterly Noncompliance Reports (QNCRs).
- DMR QA reports.
- Permits and permit applications including special exemptions and waivers applied for and granted or denied.
- NOI filings.
- Facility files pursuant to other regulatory programs may also contain useful information prior to the NPDES inspection. Some of the other regulatory programs and their reporting requirements include Toxic Substances Control Act (TSCA) reports on PCB activities; Resource Conservation and Recovery Act (RCRA) biannual reports; Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) reportable quantity release reports; EPCRA Section 312 Tier II reports and Section 313 Form R reports; Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) pesticide production registrations; and Clean Air Act (CAA) annual emission inventory reports and permit applications.
- Other correspondence including process operational problems/solutions; pollution problems/solutions; laboratory capabilities or inabilities; and other proposed or historical remedial actions. This information can provide design and operation data, recommendations for process controls, identification of pollutant sources, treatment/control systems improvement, and remedial measures.

EPA Websites and Information Resources

EPA's website contains several data tools that could be reviewed prior to the inspection:

- DMR Pollutant Loading Tool (<http://cfpub.epa.gov/dmr/>)—This site allows users to determine who is reporting discharges, what pollutants they are discharging and how much, and where they are discharging. The tool calculates pollutant loadings from permit and DMR data from EPA's Integrated Compliance Information System for the National Pollutant Discharge Elimination System (ICIS-NPDES)¹.

¹ ICIS-NPDES has replaced the Permit Compliance System (PCS).

- Electronic Notice of Intent (eNOI) (<https://www.epa.gov/npdes/electronic-notice-intent-enoi>)—This site allows users to view NOIs for construction projects under EPA’s Construction General Permit (CGP) for Low Erosivity Waivers (LEWs) or for industrial facilities seeking coverage under EPA’s Multi-Sector General Permit (MSGP).
- Enforcement and Compliance History Online (ECHO) (<https://echo.epa.gov/>)— This public site allows users to search for facility compliance and enforcement information including permit, inspection, violation, and enforcement actions. ECHO Gov (<https://echo.epa.gov/login>) includes additional data that is available only to government agencies.

Technical Reports, Documents, and References

These information sources provide general information on waste loads and characterization, industrial process operations, and pertinent specific data on available treatment/control techniques, such as their advantages or disadvantages and limits of application and pollutant removal efficiencies. Such sources include Development Documents for Effluent Limitations Guidelines and Standards.

In addition, general websites and mapping programs (e.g., Google Earth, Geographic Information Systems) can provide an overview of the facility layout, features, and outfalls.

Company Data Sources

Many companies maintain individual web sites that contain valuable information regarding the company’s financial status, significant purchases and sales, new business ventures, etc.

Inspectors may follow Appendix D, EPA’s *Memorandum on Practices to Follow and Avoid When Requesting Information*, should requesting information be necessary while conducting background research.

DEVELOPING AN INSPECTION PLAN AND/OR CHECKLIST

Inspection plans and inspection checklists are helpful tools for organizing and conducting compliance inspections. A plan is recommended to effectively conduct a compliance inspection. After reviewing the available background information, the inspector prepares a comprehensive plan to define inspection objectives, tasks and procedures, resources required to fulfill the objectives, and inspection schedule. When developing an inspection plan, inspectors should consider the following:

- Objectives
 - What is the purpose of the inspection?
 - What is to be accomplished?
- Tasks
 - What tasks are to be conducted?
 - What information must be collected?
 - What records will be reviewed?

- Procedures
 - What procedures are to be used?
 - Will the inspection require special procedures?
- Resources
 - What personnel will be required?
 - What equipment will be required?
- Schedule
 - What will be the time requirements and order of inspection activities?
 - What will be the milestones?
- Coordination
 - What coordination with laboratories or other regulatory agencies will be required?

An outline of tentative inspection objectives, meetings to be held, and records that will be reviewed can be prepared and presented to the facility officials during the opening conference.

In addition, inspectors may prepare a checklist to use during the inspection to ensure potential compliance issues have been assessed. The checklist content will vary depending on the type of inspection, but should distill the applicable regulatory and permit requirements into a simple format allowing the inspector to easily assess and document compliance. Existing checklists may be used or modified for the inspection.

DEVELOPING A HEALTH AND SAFETY PLAN

Inspectors must comply with the health and safety training requirements under EPA Order 1440.2 (see Appendix C, (*"EPA Order 1440.2, Health and Safety Requirements for Employees Engaged in Field Activities"*)). Supervisors are responsible for ensuring that these requirements are met. Additionally, a Health and Safety Plan (HASP) must be prepared prior to the inspection or field investigation to determine any health and safety hazards associated with the inspection. When developing a HASP, inspectors and supervisors should consider factors such as the site conditions, weather conditions (when applicable), required personal protective equipment, any personnel medical conditions, and the job functions that will be performed on-site.

NOTIFYING THE FACILITY

Announced Inspections

EPA conducts both announced and unannounced inspections. When conducting announced inspections, the facility operator is sometimes notified by a CWA section 308 Information Collection Request Letter or "308 Letter" that the facility is scheduled for an inspection (Appendix E is an example of a typical 308 Letter). The signature authority for a 308 Letter may be delegated to a section chief, but each region should verify the delegation. The 308 Letter advises the permittee that an inspection is imminent and usually requests information regarding on-site safety regulations to avoid problems concerning safety equipment at the time

of inspection. This letter may request items such as facility contact names and updated process information. The 308 Letter may specify the exact date of inspection, if coordination with the permittee is required. The 308 Letter can also inform the permittee of the right to assert a claim of confidentiality.

In cases where an inspection will be announced, inspectors should:

- Explain the nature and extent of the inspection.
- Provide a timeframe for the scheduled activities.
- Document any contact with the facility (e.g., phone call, letter, email).
- Request the availability of facility personnel and records/documents during the inspection.
- Inquire about special safety and security requirements.
- Inform the facility of its right to assert a confidentiality claim

The inspector should also determine whether there are program-specific forms or requirements that must be completed during the notification process.

Unannounced Inspections

When the facility is not notified in advance, the inspector has an opportunity to observe normal facility operations, rather than a facility that has been prepared for an inspection. However, the inspector may miss interviews with unavailable personnel. The inspector may find that unannounced inspections are valuable when inspecting large or complex facilities. Decisions on whether an inspection will be announced or unannounced should be made in consultation with the inspector's management and, if necessary, counsel. Unannounced inspections are appropriate if there is concern that the facility may conceal or alter evidence of noncompliance, or if the inspection team suspects that illegal discharge(s) may be occurring.

NOTIFYING STATE OF FEDERAL INSPECTION

The inspector should notify the appropriate state regulatory agency, tribe, or POTW in a timely manner of inspections to be conducted in its jurisdiction, if notification is deemed appropriate. Notification should also be provided at the municipal level for delegated programs. The state should be notified of all federal inspections unless disclosing inspection information would jeopardize an unannounced inspection. Applicable agreements and policy should be reviewed regarding this notification. This responsibility may vary depending on the region.

PREPARING EQUIPMENT AND SUPPLIES

The inspector must prepare all equipment and supplies required for the inspection. Safety equipment and procedures required for a facility are based on the response to the 308 Letter or standard safety procedures. Safety requirements must be met, not only for safety reasons, but to ensure that the inspector is not denied entry to the facility or parts of it. If the inspector will use a checklist, it should be developed or obtained during the pre-inspection preparation.

If sampling is to be performed, part of the pre-inspection process may involve preparing sampling equipment and the development of a Quality Assurance Project Plan (QAPP). A QAPP is a tool for planners to document the type and quality of data needed and to describe the methods for collecting and assessing those data. QAPPs are discussed further in Chapter 5, Section B of this manual. Sampling requires additional equipment, which may vary according to the facility inspected and the type of inspection. Table 2-1 includes a list of inspection and field sampling equipment that may be needed.

All equipment must be checked, calibrated, and tested before use. The inspector also must ensure that all materials necessary to complete an inspection are taken to the inspection site.

Table 2-1. Inspection Equipment List

Typical Inspection Equipment	
Documents and Recordkeeping Tools	
<ul style="list-style-type: none"> • Credentials • Background files • Checklists • Bound, waterproof, chemical-resistant logbook 	<ul style="list-style-type: none"> • Shipping labels • Analysis request forms • Waterproof pen • Calculator
Personal Protective Equipment^a	
<ul style="list-style-type: none"> • Hardhat • Hearing protection • Safety shoes • Gloves 	<ul style="list-style-type: none"> • Coveralls • Reflective safety vest (Class III) • Safety glasses/goggles • Rainwear
Safety Equipment^b	
<ul style="list-style-type: none"> • First-aid kit • Meters (oxygen content, explosivity, and toxic gas) • Safety harness and retrieval system • Ventilation equipment 	<ul style="list-style-type: none"> • Respirator • Filter cartridges • Self-contained breathing apparatus (If appropriate)
Tools	
<ul style="list-style-type: none"> • Multi-tooled jack knife (Swiss Army Type) • Electrical and duct tape • Tape measure • Handheld range finder and level • Extra batteries • Extra memory cards for camera, digital camera, video camera • Flashlight 	<ul style="list-style-type: none"> • Screwdriver • Adjustable wrench and vise grips • Bucket (plastic or stainless steel, as appropriate) • Nylon cord • GPS • Laptop computer • Cell phone
Additional Equipment for Sampling	
Sampling Documentation	
<ul style="list-style-type: none"> • Sampling plan 	<ul style="list-style-type: none"> • Sampling QAPP
Sampling Materials	

Table 2-1. Inspection Equipment List

<ul style="list-style-type: none"> • Automatic samplers • Tubing • Sample containers for all potential analytical methods, including extras • Sample bottle labels • Bottle dipper • Decontamination supplies • Batteries/extension cords • Sample bottle labels/sample seals • Plastic security tape 	<ul style="list-style-type: none"> • Chain-of-custody forms • Dissolved oxygen meters • pH meter • TRC meter • pH buffer • Deionized water • Chart paper • Thermometer • Coolers/ice • Preservatives
Sample Transportation Materials	
<ul style="list-style-type: none"> • Bubble pack material • Filament tape 	<ul style="list-style-type: none"> • Airbill/Bill of Lading
Flow Measurement Devices	
<ul style="list-style-type: none"> • Measurement devices (e.g., flumes, weirs, portable ultrasound or bubble systems) • Flow discharge tables 	<ul style="list-style-type: none"> • Ruler • Stopwatch or watch with second hand • level

^a Additional personal protective equipment (PPE) and safety equipment may be required for specific types of inspections.

^b Some of the equipment listed may be used for confined space entry. Only personnel trained in confined space entry should enter confined spaces.

B. OFF-SITE SURVEILLANCE

CONSIDERATIONS

Often many potential concerns can be identified prior to entering the facility, such as illegal discharges, stressed vegetation, spills, smoke, or illegal dumping. Off-site surveillance also provides an opportunity for the inspector to observe traffic patterns into and out of the facility, and determine material/product handling procedures in areas such as loading docks or equipment staging areas. Off-site surveillance also provides the inspector with geographical coordinate information, which can be used to reference photos, locations, violations, etc., and allows the inspector to determine the layout of the facility and make judgments about how to prioritize the inspection.

The inspector should document the following information when conducting off-site surveillance:

1. Location of the off-site surveillance: Was the off-site surveillance conducted from a public right-of-way?
2. Facility layout and orientation: A brief sketch of the layout and orientation (as viewed from the public right-of-way) should be noted.

3. Visible concerns: What are some obvious concerns visible from public right-of-way (e.g., containers, loading areas, tanks, obvious discharges, improper disposal)?

C. ENTRY

ENTRY PROCEDURES

Authority

The authority for entry is found in section 308(a)(4)(B) of the CWA, which states:

...the Administrator or his authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of his credentials (i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records are required to be maintained...and (ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method...and sample any effluents which the owner or operator of such source is required to sample...

In addition, NPDES permits may contain inspection authority provisions.

Arrival

The facility inspection should occur during normal working hours unless information indicates another time would be more appropriate. The inspector should announce him/herself and ask to speak to a facility official. Prior to entering a facility, inspectors should observe it as thoroughly as possible from public right-of-way (e.g., roads, sidewalks).

Credentials

When the proper facility officials have been located, the inspector must introduce himself or herself as an EPA inspector and present the proper EPA credentials. Contractors performing the inspection on EPA's behalf should identify themselves as contractors and present their credentials or authorization letter. Credentials indicate that the holder is a lawful representative of the regulatory agency and is authorized to perform NPDES inspections. The credentials must be presented regardless of whether identification is requested. The inspector should document that credentials were presented.

If the facility officials question the inspector's credentials after the credentials have been reviewed, the officials may telephone the appropriate state or EPA Regional Office for verification of the inspector's identification. Credentials must never be relinquished or allowed to be copied. For more detailed information on the use of EPA Credentials, please refer to the fact sheet "The Do's and Don'ts of Using EPA Credentials" (Appendix F).

Consent

If the inspector is allowed to enter, entry is considered voluntary and consensual.

The receptiveness of facility officials toward inspectors is likely to vary among facilities. Most inspections will proceed without difficulty. In other cases, officials may be reluctant to give entry consent because of misunderstood responsibilities, inconvenience to a facility's schedule,

or other reasons that may be overcome by diplomacy and discussion. If consent to enter is denied, the inspector should follow denial of entry procedures (see Problems with Entry or Consent below).

Whenever there is a difficulty in gaining consent to enter, inspectors should tactfully probe the reasons and work with officials to overcome the problems. Care should be taken, however, to avoid threats of any kind, inflammatory discussions, or deepening of misunderstandings. If the situation is beyond the authority or ability of the inspector, the inspector should leave the facility and contact the supervisor or Office of Regional Counsel for further guidance.

Claims of Confidentiality

The inspector should explain the permittee's right to claim material as confidential business information (CBI). The facility representative should be made aware that the inspector may examine areas related to effluent production or storage even if the permittee has asserted claims of confidentiality. CBI is discussed in greater detail later in this chapter.

Waivers, Releases, and Sign-In Logs

When the facility provides a blank sign-in sheet, log, or visitor register, it is acceptable for inspectors to sign it. However, EPA employees must not sign any type of "waiver" or "visitor release" that would relieve the facility of responsibility for injury or that would limit the rights of EPA to use data obtained from the facility.

If such a waiver or release is presented, the inspectors should politely explain that they cannot sign and request a blank sign-in sheet. If the inspectors are refused entry because they do not sign the release, they should leave and immediately report all pertinent facts to the appropriate supervisor and/or legal staff. All events surrounding the refused entry should be fully documented. Problems should be discussed cordially and professionally.

Less desirable and as a last resort the inspector may cross-out and initial any wording that is unacceptable due to its restrictive nature. The facility must agree with this option.

PROBLEMS WITH ENTRY OR CONSENT

Because a facility may consider an inspection to be an adversarial proceeding, the facility employees may question the legal authority, techniques, and competency of inspectors. Facility officials also may display antagonism toward EPA personnel. In such cases, inspectors should cordially restate the statutory authority that they are inspecting under and seek an explanation for the denial of entry. If entry is still denied, the inspector should leave and obtain further direction from their EPA supervisor or legal staff. Professionalism and politeness must prevail at all times.

Entry Procedures

The following summarizes procedures that EPA developed as a result of the 1978 U.S. Supreme Court decision in *Marshall v. Barlow's, Inc.* Appendix G contains EPA's Memorandum on Entry Procedures, "Conduct Inspections After the Barlow's Decision," in its entirety.

- Ensure that all credentials and notices are presented properly to the facility owner or agent in charge.
- If entry is not granted, ask the reason for the denial to see if obstacles (such as misunderstandings) can be cleared. If resolution is beyond the authority of the inspector, he or she may suggest that the officials seek advice from their attorneys (if they have them) to clarify EPA's inspection authority under section 308 of the CWA.
- Sometimes it can be unclear if entry is being denied. If this is the case, clearly ask if entry is being denied. If entry is still denied, the inspector should withdraw from the premises and contact his or her supervisor or regional counsel. The supervisor will confer with attorneys to discuss the desirability of obtaining an administrative warrant.
- All observations pertaining to the denial are to be carefully noted in the field notebook and inspection report. Include such information as the facility name and exact address, name and title of person(s) approached, name and title of the person(s) who refused entry, date and time of denial, detailed reasons for denial, facility appearance, and any reasonable suspicions of regulatory violations. All such information will be important should a warrant be sought.

Actions to Take if Entry is Denied

If entry is denied, either to the entire facility or parts of the facility, the inspector should:

- Cite the appropriate EPA inspection authority to the company official, ask if he/she understands the reason for your presence, and record the answer and any reason given for entry denial.
- Record the name, title and telephone of the individual denying entry, as well as the date and time.
- Leave the premises.
- Document any site conditions and the events related to the entry denial after leaving the facility and inform your immediate supervisor or regional counsel.

Important Considerations

Inspectors should use discretion and avoid potentially threatening or inflammatory situations. If a threatening confrontation occurs, the inspector should document it and then report it immediately to the supervisor or staff attorney. If feasible, statements from witnesses should be obtained and included in the documentation.

Withdrawal of Consent During Inspection

If the facility representative asks the inspector to leave the premises after the inspection has begun, the inspector should leave as quickly as possible following the procedures discussed previously for denial of entry. All activities and evidence obtained before the withdrawal of

consent are valid. The inspector should ensure that all personal and government equipment is removed from the facility.

WARRANTS

The inspector may be instructed by EPA attorneys, under certain circumstances, to conduct an inspection under search warrant. A warrant is a judicial authorization for appropriate persons to enter specifically described locations to inspect specific functions. A pre-inspection warrant possibly could be obtained where there is reason to believe that entry will be denied when the inspector arrives at the facility or when the inspector anticipates violations that could be hidden during the time required to obtain a search warrant. This would be done only in unusual circumstances.

D. OPENING CONFERENCE

Once credentials have been presented, the inspector can proceed to outline inspection plans with facility officials. At the opening conference, the inspector provides names of the inspectors, the purpose of the inspection, authorities under which the inspection is being conducted, and procedures to be followed. EPA encourages cooperation between the inspectors and the facility officials to facilitate assignments and ensure the success of the inspection.

CONSIDERATIONS

Inspection Objectives

A discussion of inspection objectives will inform facility officials of the purpose and scope of the inspection and may help avoid misunderstandings.

Order of Inspection

A discussion of the order in which the inspection will be conducted will help eliminate wasted time by allowing officials time to make records available and start up intermittent operations.

Meeting Schedules

A schedule of meetings with key personnel will allow facility officials adequate time to spend with the inspector.

List of Records

A list of facility records that will need to be reviewed as part of the inspection should be provided to facility officials (i.e., permits, DMRs, chain-of-custody forms, sampling data, operation and maintenance records, training records, lab data sheets, and other records can be requested depending on the inspections type being performed). This will allow the officials adequate time to gather the records and make them available for the inspector.

Accompaniment

It is important that a facility official accompany the inspector during the inspection (unless the facility is unmanned) not only to answer questions and describe the plant and its principal operating characteristics, but also for safety and liability considerations. Discussion of such

needs with facility officials will provide them the opportunity to allocate personnel for this purpose, however, in some circumstances, the facility official may choose not to accompany the inspector. Even in these situations, the inspector should talk to the personnel responsible for performing sample collection and analysis, or other relevant functions, to gather specific information on these procedures (including required knowledge of responsible personnel).

Permit Verification

The inspector should verify pertinent information included in the permit, such as facility name and address, receiving waters, and discharge points. The inspector should also validate (or obtain) accurate outfall location data (i.e., the precise latitude and longitude of each outfall using a handheld, calibrated GPS unit).

Safety Requirements

The inspector should be prepared with the appropriate safety equipment (e.g., hard hat, safety shoes, safety glasses, safety vest) The inspector should reaffirm which Occupational Safety and Health Administration (OSHA) and other facility safety regulations will be involved in the inspection and should determine whether his safety equipment is adequate.

Split Samples

Facility officials should be informed during the opening conference of their right to receive a split or duplicate of any physical sample collected for laboratory analysis if sufficient sample volume is collected. Officials should indicate at this point their desire to receive split and duplicate samples so that arrangements can be made to secure the samples during inspection. It is the responsibility of the facility to provide its own sample bottles, preservatives, etc.

Photography

Photography is an essential tool used to help the inspector prepare a thorough and accurate inspection report, to present evidence in enforcement proceedings, and to document conditions found at a site. The CWA gives the inspector the authority to collect and copy records including digital images during an inspection. See Section E, "Documentation," for additional information on documenting digital images.

The inspector should work with facility personnel during the opening conference to ensure photography meets the sites requirements. Prior to taking digital images, the inspector should obtain the permittee's approval. The inspector should be tactful in handling any concerns or objections a permittee may have about the use of a camera. In some cases, the inspector may explain to the permittee's representative that wastestreams, receiving waters, and wastewater treatment facilities are public information, not trade secrets. If the facility representative expresses reservations about allowing the inspector to take digital images, these concerns should be discussed to seek a mutually acceptable solution. This can be as simple as agreeing to avoid photographing sensitive items which are irrelevant to the inspection, and/or allowing the representative to view each digital image as it is taken. The facility may also have concerns about the safety of taking photographs in areas where there are explosive vapors and may require equipment be intrinsically safe or may need to issue a "hot work" permit allowing the

use of the camera in certain areas. The inspector should work with the facility personnel to determine areas that may not allow digital cameras.

The facility representative can claim digital images as CBI if they contain confidential information, but inspection photographs should not be deleted except for rare circumstances. An inspection image may be deleted if the image is claimed as CBI and the inspector is not authorized to receive CBI. Additionally, the image may be deleted if it contains CBI that is not relevant to the inspection or if it captures facility staff, and it is against the facility's policy to photograph its employees. In cases where an image is deleted, the inspector should note why it was deleted in the inspection notebook.

If the facility would like to retain copies of digital images taken during the inspection, the inspector should suggest that the facility staff accompany the inspector and take their own digital images of the same areas that the inspector is taking. According to *EPA's Information Security National Rules of Behavior*, to maintain EPA Information Technology (IT) security, an EPA computer, tablet or other electronic device should never be physically connected to a facility computer or device. Additionally, the inspector must only use EPA-authorized internet connections that meet the required security and communication standards to wirelessly transmit digital images. The inspector may provide the facility copies of digital images taken during the inspection upon request via email.

As a general rule, it is considered a denial of entry when a facility imposes any photographic restrictions that limit the inspector from properly performing the inspection. In the event the permittee's representative still refuses to allow digital images, and the inspector believes the images will have a substantial impact on future enforcement proceedings, the inspector's supervisor or regional attorneys should be consulted for further instructions.

Facilities may claim that certain digital images are CBI, in which case the inspector must handle the digital images following all CBI procedures. If there are other circumstances such as national security issues, the inspector should try to collect the evidence needed without taking digital images. The inspector should inform the site representative that he or she will be taking digital images as a routine part of their inspection. If entry is denied, the inspector may photograph areas of the facility exposed to public view, when standing outside the facility.

Small Businesses

The inspector should provide the facility with EPA's "Small Business Resources Information Sheet," where applicable. The information sheet provides resources to help small businesses understand and comply with federal and state environmental laws. EPA's "Small Business Resources Information Sheet" can be found at: <https://www.epa.gov/compliance/small-business-resources-information-sheet>.

Closing Conference

A post-inspection meeting should be scheduled with appropriate officials to provide a final opportunity to gather information, answer questions, present initial observations of deficiencies, and complete administrative duties. The inspector should not make

determinations of compliance or noncompliance while on-site or during the closing conference. Determinations of compliance or noncompliance should be made back at the office in consultation with appropriate management.

New Requirements

The inspector should discuss and answer questions pertaining to any new rules and regulations that might affect the facility. If the inspector is aware of proposed rules that might affect the facility, he or she may wish to encourage facility officials to obtain a copy.

E. DOCUMENTATION

Providing documentation of an inspection is an inspector's basic responsibility. Documentation serves to "freeze" the actual conditions existing at the time of inspection so that evidence can be examined objectively by compliance personnel.

Documentation is a general term referring to all printed information and electronic media produced, copied, or taken by an inspector to provide evidence of suspected violations. Forms of documentation include the field notebook, statements, photographs, videotapes, drawings, maps, printed matter, mechanical recordings, and copies of records.

INSPECTOR'S FIELD NOTEBOOK

The core of all documentation relating to an inspection is the field notebook, which provides accurate and inclusive documentation of all inspection activities. A bound notebook with sequentially numbered pages should be used, and entries should be made in permanent, waterproof ink. A new inspection notebook should be used for each new inspection. Multiple inspections from different facilities should not be kept in a single notebook as they lose their validity if separated from the notebook, such as when one set of notes is needed for the court record. You will lose all notes from other inspections contained in the notebook if inspection notes are subpoenaed.

The notebook will form the basis for written reports and should contain only facts and pertinent observations. Language should be objective, factual, and free of personal feelings or terminology that might prove inappropriate. Cross out and initial any errors in the notebook. The field notebook should never leave the inspector's possession during the inspection. Do not allow a facility to copy the field notebook. Notebooks become an important part of the evidence package and can be admissible in court. The field notebook is a government record and subject to record retention schedules.

Inspection Notes

An inspector may need to testify in an enforcement proceeding. Therefore, it is imperative that each inspector keep detailed records of inspections, investigations, samples collected, and related inspection functions. An inspector should note the date and time of arrivals and departures each day of the inspection and document the sequence of events during each day of the inspection. Types of information that should be entered into the field notebook include the following:

Observations

Record all conditions, practices, and other observations that will be useful in preparing the inspection report or that will validate other types of evidence. For example, weather conditions such as rain/snowfall events prior to and during the inspection are useful and can assist the inspector in determining whether inflow/infiltration is a problem with the facility, or whether stormwater controls were adequate.

Documents and Digital Images

All documents taken or prepared by the inspector such as the completed checklists for the inspection report should be noted and related to specific inspection activities. The inspector should adequately document each digital image so that its content can be properly identified with the site, date, GPS coordinates (if available), photographer name, and description of the digital image. The “Digital Images” section below contains additional documentation information.

Unusual Conditions and Problems

Note and describe unusual conditions and problems in detail.

General Information

List names and titles of all facility personnel contacted during the inspection and the activities they perform. Business cards of facility representatives may be useful. Any statements made by facility personnel during the inspection should be included in the field notebook along with other general information. Information about a facility's recordkeeping procedures may also be useful in later inspections.

SAMPLES

For sample analytical results to be admissible as evidence, a logical and documented connection must be shown between samples taken and analytical results reported. This connection is shown by using a chain-of-custody form that identifies and accompanies a sample between the time it is collected and the time it is analyzed. Sampling techniques and procedures are discussed in Chapter 5, "Sampling."

INTERVIEWS AND STATEMENTS

Inspectors may attempt to obtain a formal statement from a person who has personal, firsthand knowledge of facts pertinent to a potential violation. In most inspections, the majority of information will be collected through informal statements and interviews. The inspector should interview as many of the facility personnel as possible to prepare an accurate description of the facility and its operations. It is useful to talk with people throughout the work area. For informal statements and interviews, attribute assertions to specific facility personnel as much as possible. Do not tape record without the individual's knowledge. When conducting an interview, ask how, what, where, when, and why. Allow adequate time for the personnel to respond.

For interviews, open-ended questions are usually the most useful for gathering information. However, the yes/no, or close-ended questions are also sometimes necessary when the inspector is trying to collect specific information.

The principal objective of obtaining a formal statement is to record in writing, clearly and concisely, relevant factual information. Request the person making the statement sign and date the statement to certify that the document reflects an accurate summary of what they said.

Procedures and Considerations

- Determine the need for a statement. Will it provide useful information? Is the person making the statement qualified to do so by personal knowledge?
- Ascertain all the facts. Make sure all information is factual and firsthand. Record statements that are relevant and that the person can verify in court. Avoid taking statements that cannot be personally verified.
- In preparing a statement, use a simple narrative style with clear, plain stilted language.
 - Narrate the facts in the words of the person making the statement.
 - Use the first-person singular ("I am manager of . . .").
 - Present the facts in chronological order (unless the situation calls for another arrangement).
- Positively identify the person making the statement (name, address, position).
- Show why the person is qualified to make the statement.
- Present the pertinent facts.
- Have the person read the statement and make any necessary corrections before signing. If necessary, read the statement to the person in the presence of a witness.
 - All mistakes that are corrected must be initialed by the person making the statement.
- Ask the person making the statement to write a brief concluding paragraph indicating that he or she read and understood the statement and have that person sign this declarative statement. This safeguard will counter a later claim that the person did not know what he or she was signing.
- If he or she refuses to sign the statement, elicit an acknowledgment that it is true and correct. Ask for a statement in his or her own hand ("I have read this statement and it is true, but I am not signing it because..."). Failing that, declare at the bottom of the statement that the facts were recorded as revealed and that the person read the statement and avowed it to be true. Attempt to have any witness to the statement sign the statement including the witness' name and address.
- Provide a copy of the statement to the signer if requested.

DIGITAL IMAGES

The documentary value of digital images ranks high as admissible evidence. Clear digital images of relevant subjects provide an objective record of conditions at the time of inspection. If possible, keep "sensitive" operations out of the photographed background. To avoid capturing confidential information, the inspector should confer with the permittee to determine if the intended digital image will contain confidential information. If the inspector must take a digital image of an area containing confidential information, the facility representative can claim the image as CBI. Facilities may claim that certain digital images are CBI, in which case the inspector must handle the images following all CBI procedures. Digital images can also be used to collect copies of paper records where photocopiers are not available.

The primary objective of inspection photography is to create an image that accurately documents the inspector's observations and that can be used to testify that the image is a "true and accurate representation of what he or she saw on that date."

Digital cameras offer the advantage of immediate viewing of the image to assure proper composition and exposure. Date and time information is stored with the digital image and should be downloaded and stored with the image. Prior to taking digital images, the inspector should ensure the date and time settings on the camera are accurate. The site, photographer name, GPS coordinates (if available), weather conditions, and a description of the photograph (including compass direction if known (e.g., looking north or facing northwest)) should be recorded in the inspector's field notebook or a separate photograph log. Some digital cameras have built in GPS capability. If the camera does not, a separate GPS unit could be used to record the location. Video cameras and some digital cameras allow information about the digital image to be voice recorded. Refer to Appendix H, "EPA's Policy on the Use of Digital Cameras for Inspections," for EPA guidance on using digital cameras for inspections.

Equipment

Depending on the situation, there are normally three types of digital images that can be taken: 1) the establishing shot, 2) the subject, and 3) the detail shot. The "establishing shot" or wide-angle shot is a digital image taken from a distance that shows the subject in relation to permanent landmarks that can be used for reference in establishing the location of the subject. The "subject" shot emphasizes a specific object or event. The "detail" shot or close-up is typically an area of interest within the subject, such as a nameplate or leaky valve. It may be helpful to include an object of known size for scale reference such as a notebook or pen.

Safety

In areas where there is a danger of explosion, flash images should not be taken. In some situations, where explosive vapors may be present, such as petroleum refineries, hot-work permits, provided by the facility, may be necessary to take digital images. If there is a danger of electrical shock, digital images should be taken from a distance known to be safe. As mentioned previously, inspectors can work with facility personnel during the opening conference to ensure photography meets the sites requirements.

VIDEO

For some inspections, video cameras can be more effective in documenting your findings. Video cameras not only can document motion relative to a violation, but record sound, have extreme zoom capabilities, and can operate in very low light conditions. When recording sound, inspectors must be aware that all comments are recorded.

GPS

GPS units can document the latitude, longitude, and altitude for photographs, samples, or facility unit operations and features. The GPS coordinates can be entered into the field notebook or can be electronically downloaded.

DRAWINGS AND MAPS

Schematic drawings, maps, charts, and other graphic records can be useful supporting documentation. They can provide graphic clarification of site location relative to the overall facility, relative height and size of objects, and other information which, in combination with samples, photographs, and other documentation, can produce an accurate, complete evidence package. Electronic maps of the facility, available through Google Earth, should be obtained prior to the inspection and used to verify any changes that may have occurred since the Google Earth image was taken.

Drawings and maps should be simple and free of extraneous details. Include basic measurements and compass points to provide a scale for interpretation. Identify drawings and maps by source, inspector's initials, and date.

PRINTED MATTER

Brochures, literature, labels, and other printed matter may provide important information regarding a facility's conditions and operations.

Collect these materials as documentation if they are relevant. The inspector should create a receipt of documents and samples taken from the facility, ensuring that all printed matter obtained during the inspection is listed on this receipt.

ELECTRONIC RECORDS

Properly date and sign printouts of electronic records so they can be entered as evidence. Charts, graphs, and other hard copy documents produced from computer output should be treated as printed documentation and handled accordingly.

COPIES OF RECORDS

Facility records should be reviewed to verify the facility properly reports and maintains the required records and to verify permit compliance. The facility may store records in a variety of information retrieval systems, including written or printed materials or electronic format.

Obtaining Copies of Necessary Records

When copies of records are necessary for an inspection report consider, storage and retrieval methods.

Written or printed records generally can be photocopied on-site. Portable photocopier machines may be available to inspectors through the Regional Office. Where possible, inspectors should ask the facilities in advance if copying equipment would be available. When necessary, inspectors can obtain approval from the appropriate EPA authority to pay a facility a "reasonable" price for use of copying equipment. If the facility does not have a photocopier and a portable photocopier is not available, a photocopier machine is usually accessible at a nearby site (e.g., post office, convenience store). However, inspectors must obtain permission from the permittee prior to taking records off-site for copying. Information on some records may also be gathered with a camera.

- At a minimum, all copies made for or by the inspector should be listed in a document receipt, along with any printed matter or samples taken.
- When photocopying is impossible or impractical, close-up photographs or videotape or hand copying could be used.

Computer or electronic records may require the generation of hard copies for inspection purposes. Arrangements should be made during the opening conference, if possible, for these copies. Records could also be transferred electronically to a flash drive or disc. Photographs of computer screens or electronically saved screen shots may provide adequate copies of records if other means do not exist.

Identification Procedures

The records reviewed during an inspection should immediately be adequately identified to ensure the records can be differentiated and tracked throughout the EPA custody process and are admissible in court. When inspectors are called to testify, they must be able to identify each document and state its source and the reason for its collection if asked.

The inspector should log the records taken on the receipt of documents and samples taken from the facility, to be signed by both a facility representative and the inspector. The document receipt should clearly list each item taken with a descriptive title and assign each item a number. Once a facility representative and the inspector sign off on the receipt, the facility should make a copy of this receipt for their records. This receipt can also include other relevant information about what is taken from the facility, such as the number of pages in a document. The document and sample receipt thus provides a valuable reference for what records, copies, samples, etc. were obtained during the inspection.

Logging

Documents obtained during the inspection should be entered in the field notebook by a logging or coding system. The system should include the identifying number, date, and other relevant information:

- The reason for copying the material (i.e., the nature of the suspected violation or discrepancy).
- The source of the record (i.e., type of file, individual who supplied record).
- The manner of collection (i.e., photocopy, other arrangements).

GENERAL CONSIDERATIONS

- Return originals to the proper person or to their correct location.
- Group related records together.
- Handle CBI records according to the special confidential provisions discussed below.

Routine Records

The inspector may find it convenient to make copies of records, such as laboratory analysis sheets and data summaries, to refresh his or her memory when preparing the inspection report. It is not always necessary to follow the formal identification and logging requirements when such records are obtained for general information purposes or to aid in the preparation of routine inspection reports.

CONFIDENTIAL BUSINESS INFORMATION (CBI)

Handling of CBI or Trade Secrets during Inspections

Section 308(b)(2) of the CWA (40 CFR Part 2) protects and defines trade secrets and Confidential Business Information (CBI) from public disclosure. Section 308(a)(4) of the CWA states that an inspector may sample an effluent, request information, have access to the location of the effluent, and inspect any monitoring equipment. The information that is collected is available to the public, unless the information is claimed as CBI. If a permittee does not want inspection information to be available to the public, he or she must request that EPA consider the information confidential.

When conducting compliance inspections, an inspector may have to deal with claims of business confidentiality as authorized under section 308 of the CWA and as defined under 40 CFR Part 2, Subpart B. This section of the statute is designed to protect CBI from unauthorized disclosure. CBI includes information considered to be trade secrets (including chemical identity, processes, or formulation) or commercial or financial information that could damage a company's competitive position if they became publicly known. Inspectors that handle CBI must complete applicable CBI training and be cleared to handle CBI.

Any business being inspected has the right to claim all or any part of the information gathered during that inspection, other than effluent data or publicly available information, as CBI. See section 308(b) of the CWA; 40 CFR 2.302(e) and 2.20. EPA often notifies the business of its right to assert a claim of confidentiality at the time of the 308 letter. Frequently, the 308 Letter is used for this notification. After the business has responded to the 308 letter and, in that response, has asserted whatever claims of business confidentiality for eligible information it intends to make, EPA generally will be aware of any issues related to the handling of the information claimed as CBI.

The affected business may assert a CBI claim at any time, per 40 CFR 2.203(c), unless EPA requires the business to assert all CBI claims at the time of submission of a response to the 308 Letter and failure to do so may result in disclosure without further notice. See 40 CFR 2.203(a). If no such timing requirement is provided in the 308 Letter, the business can make such a claim at the time of the inspection or at any time after the inspection. Any CBI claim must be in writing and signed by a responsible company official. Information claimed as CBI can be later reviewed to determine whether the claim is valid. The CBI claim relates only to the public availability of such data and cannot be used to deny facility access to inspectors performing duties under section 308 of the CWA. Therefore, a business is entitled to assert a CBI claim for all information that an inspector requests or has access to; however, a business may not refuse to release information requested by the inspector under the authority of section 308 of the CWA on the grounds that the information is considered CBI or a trade secret.

While the business is entitled to make a CBI claim on all information that an inspector requests or has access to while on-site (other than effluent data or publicly available information), these CBI claims are subject to review by EPA's Office of General Counsel or Office of Regional Counsel and the business may be asked to substantiate its CBI claims. See 40 CFR 2.204(e). If a CBI claim for certain information is received by EPA after the information itself is received by EPA, EPA will make such efforts as are administratively practicable to associate the late claim with copies of the previously submitted information in EPA's files. See 40 CFR 2.203(c). However, EPA cannot assure that such efforts will be effective, considering the possibility of prior disclosure or widespread prior dissemination of the information.

When a business makes the CBI claim, the Regional Office normally will not determine the validity of that claim until there is a request for the information from a third party, if EPA desires to determine whether the business information is entitled confidential treatment, if it is likely the EPA will be requested to disclose this information, or if EPA believes that the information should be included in the public record in connection with a proceeding. The exact procedures for making and handling CBI determinations are contained in 40 CFR Part 2, Subpart B. Until the EPA makes an adverse determination on the CBI claims, the information is entitled confidential treatment and protected from release.

In some cases, entry to a facility may be denied based on the claim by a permittee that there is CBI at the facility. In such cases, the inspector should recite the relevant subsections of 308 so they are clearly understood by all parties involved. The inspector should then explain the provisions of 40 CFR Part 2, Subpart B, concerning EPA's handling of CBI and information claimed as CBI. For example, the inspector could suggest that the protected material or process be segregated from other non-CBI information or processes. If the facility representative still refuses entry, the inspector should not contest the issue but should treat the matter as denial of entry and immediately notify the appropriate EPA enforcement office for instructions.

Types of Information Excluded from Confidential Treatment

To understand CBI claims, an inspector should know the types of information entitled confidential treatment as defined in 40 CFR Part 2. The regulations specifically exclude certain types of information from confidential treatment. This "public information" includes the NPDES

permit application and all "effluent data" as defined in 40 CFR 2.302(a)(2)(i). According to this definition, effluent data include all information necessary to determine the identity, amount, frequency, concentration, temperature, and other characteristics (to the extent they are related to water quality) of:

- Any pollutant that has been discharged by the source (or any pollutant resulting from any discharge from the source).
- The pollutant which, under an applicable standard or limitation, the source was authorized to discharge (including, to the extent necessary for such purpose, a description of the manner or rate of operation of the source).

Effluent data may also include a general description of the location and/or nature of the source to the extent necessary to distinguish it from other sources (e.g., a description of the device, installation, or operation constituting the source).

Confidentiality Agreements and Nondisclosure

Inspectors, whether EPA, the state, or EPA contractors conducting NPDES compliance inspections, shall not sign any pledge of secrecy or confidentiality agreements or any agreement that would limit the EPA's ability to disclose information received while inspecting a facility or inconsistent with 40 CFR Part 2, Subpart B. See 40 CFR 2.215. Section 308 of the CWA does not specify that a secrecy agreement must be executed as a condition of entry.

Unauthorized disclosure of confidential information by EPA or state employees and authorized contractors is prohibited by law (33 U.S.C. 1318(b) and 18 U.S.C. Part 1905). In addition, all contractor inspectors must sign a statement that they will be personally bound by 40 CFR Part 2, Subpart B, and not disclose trade secrets or CBI.

It is not appropriate for the compliance inspector to determine whether a permittee's CBI claim is appropriate or justified. Once such a claim is made, the information must not be disclosed and must be kept confidential until a determination is made by the appropriate EPA legal office. EPA employees who violate these requirements may be subject to dismissal, suspension, or fines. Criminal action may be taken against EPA employees and authorized contractors or subcontractors who are unauthorized to disclose CBI.

Best Practices for Handling Confidential Business Information

Routine security measures will help ensure that reasonable precautions are taken to prevent unauthorized persons from viewing CBI or information claimed as CBI. When practical circumstances prohibit the inspector from following the procedures exactly, he or she should take steps to protect the information and note those procedures in the field notebook. He or she should mark all information claimed as CBI received as such and place in a locked filing cabinet or a safe immediately after the inspection is completed. Maintain a chain-of-custody record for all CBI and information claimed as CBI. Since CBI and information claimed as CBI requires special handling procedures, it may be useful to keep it in a separate notebook in a secure/locked location. By doing this, only the CBI material, and not the entire notebook of inspection findings, would have to be kept in a locked filing cabinet.

- While traveling. The inspector may be on the road for several days while conducting inspections. The inspector is responsible for ensuring that the information collected is handled securely.
 - Maintain physical possession of the documents. Documents and field notes are considered secure if they are in the physical possession of the inspector and are not visible to others while in use.
 - Keep inspection documents that contain sensitive information in a locked briefcase. If it is impractical to carry the briefcase store the briefcase in a locked area, such as the trunk of a motor vehicle.
 - Place physical samples in locked containers and store in a locked portion of a motor vehicle. The chain-of-custody procedures provide further protection for ensuring the integrity of the sample.
 - CBI should not be stored in checked baggage if travelling by airplane.
- In the office. Each region should develop CBI standard operating procedures. It is useful to indicate who the Regional Administrator, Division Director, Branch Chief or Document Control Officer has authorized to have access to CBI. An access log should be maintained for all transactions. Do not copy information marked "trade secret" and/or "confidential business information" unless there is written authority from the Regional Administrator, Division Director, Branch Chief, or Document Control Officer. Requests for access to CBI or information claimed as CBI by any member of the public, or by an employee of a federal, state, or local agency, must be handled according to the procedures contained in the EPA Freedom of Information Act regulations under 40 CFR Part 2, Subpart B. All such requests should be referred to the responsible regional organizational unit.

F. CLOSING CONFERENCE

To achieve the most effective results from compliance inspections, the inspector should communicate results promptly to the facility management and personnel. The inspector should limit the discussion to preliminary findings of the inspection. If appropriate, the inspector may compare findings with the permittee's NPDES permit requirements, consent decrees, administrative orders, and other enforcement actions. At no time should inspectors state whether any of the observed deficiencies are violations.

Facility officials are usually anxious to discuss the findings of an inspection before the inspector(s) leave. Inspectors should hold a closing meeting or conference for the presentation and discussion of preliminary inspection findings. The closing conference provides an opportunity to describe areas of concern (e.g., unpermitted discharge; parts of a SWPPP missing; routine inspections not being done; silt fence not installed; discharge to a storm drain). During this meeting or conference, inspectors can answer final questions, prepare necessary receipts, provide information about the NPDES program, and request the compilation of data that were not previously available during the inspection. It also presents an opportunity to deliver compliance assistance materials and/or information in accordance with EPA's *National Policy on the Role of the EPA Inspector in Providing Compliance Assistance During Inspections*

(EPA, 2003), available at: <https://www.epa.gov/compliance/policy-role-epa-inspector-providing-compliance-assistance-during-inspections>.

Inspectors should be prepared to discuss follow-up procedures, such as how results of the inspection will be used and what further communications the region, state, tribe, or locality may have with the facility. Inspectors should conduct closing conferences in accordance with any applicable guidelines or standard operating procedures (SOPs) established by the EPA Regional Administrator, State Commissioner, Tribal Official, or Local Director.

The inspector may issue a Deficiency Notice that specifies existing or potential problems in a permittee's self-monitoring program. Issuing a Deficiency Notice on-site or after the site inspection provides a swift and simple method for improving the quality of data from NPDES self-monitoring activities. An example Deficiency Notice and EPA's "Memorandum on Deficiency Notice Guidance" are provided in Appendix I.

G. INSPECTION REPORT

The adequacy of compliance follow-up to correct problems or deficiencies noted during the inspection greatly depends on the report prepared by the inspector. The following sections of this chapter detail procedures for collecting and substantiating the information used to prepare this report. Once collected, however, the inspector should organize and arrange the material so that compliance personnel can make maximum use of the evidence or inspection information. The information presented in this section provides general guidelines for organizing evidence and preparing an inspection report.

OBJECTIVE OF THE NPDES INSPECTION REPORT

The objective of a NPDES inspection report is to organize and coordinate all inspection information and evidence into a comprehensive, usable document. To meet this objective, information in an inspection report must be presented in a clear, well-organized manner. The information should be objective and factual; the report must not speculate on the ultimate result of the inspection findings. Inspectors must avoid using of the term "violation" and should instead use words like finding or deficiency. The following are particularly important:

- Information in the report should be factual and based on sound inspection practices. Observations should be the verifiable result of firsthand knowledge. Compliance personnel must be able to depend on the accuracy of all information.
- Information in an inspection report should be relevant to the subject of the report. Extraneous data that clutters a report and may reduce its clarity and usefulness should not be included in the report. Avoid personal comments and opinions.
- Substantiate suspected deficiency(s) by as much factual information as is feasible to gather. Organize all information pertinent to the subject into a complete package. Documentation (e.g., photographs, statements, sample documentation) accompanying the report should be referenced clearly so that anyone reading the report will get a

complete, clear overview of the situation. The more comprehensive the evidence is, the better and easier to determine compliance or noncompliance.

EFFECTIVELY COMMUNICATE AND DOCUMENT FINDINGS IN THE INSPECTION REPORT

This is especially critical when the findings and observations support that an alleged deficiency has occurred. The following includes examples of how to effectively communicate alleged deficiencies.

1. First, state the requirement in the actual language of the statute, permit, or regulation and then describe and present the evidence that shows how the facility failed to meet the requirement. It can be helpful to repeat the same words used in the statute, permit, or regulation when describing what was observed at the facility. Each alleged deficiency should be made obvious to the reader by thoroughly and clearly describing all documents, photographs, statements, and other evidence in the inspection report. This should include the inspector's own observations. For example:
 - a. **Failure to meet Missouri State Operating Permit (MSOP) conditions.** The Missouri MSOP, MO0023456, issued to the City of Pollutionville, at Section C. Special Conditions, Subsection 6. General Criteria, contains the following requirement: "a) Waters shall be free from substances in sufficient amounts to cause formation of putrescent, unsightly or harmful bottom deposits or prevent full maintenance of beneficial uses." On January 5, 2002, at the WWTP's outfall 32 (see map—attachment 3), I observed the receiving water body, Greenfoot Stream, to have approximately 4–5 inches of sludge deposit on the bottom 9 inches (see photos #10–14, approximation of depth made with 12" ruler) as well as a blood worm population (photos #15–16, estimate of blood worm population based on counting the number of blood worms per square foot of water surface to a depth of about 1 foot). Greenfoot Stream is on the Missouri 303(d) list for nutrient content. Mr. Smith, the plant operator, signed a statement that the plant had been losing solids to the stream for four months due to an increased organic load from Acme Meat Packing Co. (see attachment 5) ...
 - b. **Failure to properly operate and maintain treatment system; failure to meet the TSS daily maximum limit.** Part IV.B.3 of the EPA Region 8 NPDES Permit, WY0112233, (the permit) states, "The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit." During the inspection, I observed that the secondary clarifier was not operating. Mr. Helpful, the superintendent, stated that the secondary clarifier had been offline for the past month until money for a new drive unit could be procured, and the old drive unit became jammed and no longer works. Based on sampling records I reviewed at the facility, the facility effluent has exceeded the daily maximum total suspended solids limit of 45 mg/L listed in Part II.B.1 of the permit on March 23, 2014 (190 mg/L); March 31, 2014 (104 mg/L); April 6, 2014 (188 mg/L); and April 11, 2014 (154 mg/L).

Use a separate, indented paragraph to highlight each alleged deficiency along with an obvious font change.

Each inspector should use the following techniques to ensure a well-documented inspection report:

1. Write the report as soon as possible upon return from the field. As noted earlier, excessive delays or reports not written “near-in-time” to the inspection can compromise EPA’s ability to conduct timely enforcement.
2. Write the report in the active voice and in a “compare and contrast” style. Each alleged deficiency identified should be stated in a manner where the facts are presented and then compared, against the statute, permit or regulatory requirement.
3. Use simple, direct language, short sentences and paragraphs, and avoid repetition.
4. Identify, by name and relationship to the facility, who said what and when.
5. Clearly identify all alleged deficiencies observed during the inspection or evaluated prior to the report write-up.
6. Reference the applicable statute, permit, or regulation for each alleged deficiency identified. If the inspection is conducted in a state that is authorized to implement the regulation, then the applicable state law or regulation should be referenced.
7. Provide a complete and detailed description of all materials (e.g., all photographs, maps, diagrams) gathered to support the potential violation.
8. Identify, number, and reference all attachments in the text of the field report.
9. Use consistent word choice; e.g., if a particular device is called a “Waste-o-matic,” use the term “Waste-o-matic” throughout the report to describe that device.
10. Do not use negative inferences. For example, avoid saying “...the only drums found were...,” which is not first person and implies that no other drums were at the facility. Simply state what was observed; e.g., “During the inspection, I observed five drums which were...”
11. Do not use vague and ambiguous terms or statements. For example, avoid using words like indicated, implied, suggested, several, many, some, or it was determined.
12. Do not use absolute terms like all, always, or every, unless the findings and observations have been fully verified and documented. Be as precise and accurate as possible.
13. Do not repeat or use information obtained from previous inspection reports that was not verified during the inspection unless the purpose of stating previous alleged violations is to establish that there is a pattern of the same alleged violations.
14. Describe all actions (including timeframes) that the facility said they would complete as a result of the inspection.

ELEMENTS OF A REPORT

Although specific information requirements for an inspection report will vary, most reports will contain the same basic elements:

- Supplementary narrative information
- Copies of completed checklists
- Documentation
- Inspection Conclusion Data Sheet (if required by the regional office Standard Operating Procedures)

Supplementary Narrative Information

Supplementary narrative information could be a memorandum in the case of routine inspections or a narrative report when major violations are detected. When a narrative report is necessary to fully describe a compliance inspection, the contents of the report should focus on supporting or explaining the information provided.

The narrative report should be a concise, factual summary of observations and activities, organized logically and legibly, and supported by specific references to accompanying documentation.

Basic steps in writing the narrative report include the following:

- **Reviewing the information**
 - The first step in preparing the narrative is to collect all information gathered during the inspection. Review the inspector's field notebook in detail. Review all evidence for relevance and completeness. A telephone call or, in unusual circumstances, a follow-up visit may be needed to obtain additional or supplementary information. Record any phone call relating to the inspection in the inspector's logbook with date and time.
- **Organizing the material**
 - Organize the information according to need, present it logically and comprehensively. Organize the narrative so that it is easily understood.
- **Referencing accompanying material**
 - Reference all documentation accompanying a narrative report clearly so that the reader will be able to easily locate the items. The "Documentation" section in this chapter provides details on document identification. The inspector should check all documentation for clarity before writing the report.
- **Writing the narrative report**
 - Once the material is reviewed, organized, and referenced the narrative can be written. The purpose of the narrative is to factually record the procedures used in, and findings resulting from, the evidence-gathering process. The inspector should refer to routine procedures and practices used during the inspection, but should

detail facts relating to potential violations and discrepancies. The field notebook is a guide for preparing the narrative report.

- If the inspector has followed the steps presented in this manual, the report will develop logically from the organizational framework of the inspection. In preparing the narrative, the inspector should strive to use plain and simple language and always proofread the narrative carefully.
- **Copies of completed checklists**
 - Refer to comprehensive checklists in the technical chapters of this manual and in the appendices. When appropriate, use these checklists to collect information during the inspection, the region may modify these to specific concerns. Include copies of all completed checklists in the inspection report.
- **Documentation**
 - Include or reference all documentation produced or collected by the inspector to provide evidence of suspected violations in the inspection report. The “Documentation” section in this chapter provides details on obtaining and organizing this material.

INTEGRATED COMPLIANCE INFORMATION SYSTEM (ICIS)

The inspection office should ensure that all required data are entered into ICIS, which is used for national tracking of NPDES permit information. EPA does not credit the inspection until it is coded/entered into ICIS. Therefore, timely completion of reports and data entry into ICIS is essential as part of the compliance inspection follow-up. Make every effort to ensure that data are entered no later than 30 days after the inspection is completed.

Integrated Compliance Information System (ICIS)

ICIS supports the information needs of the National Enforcement and Compliance program as well as the unique needs of the NPDES program. ICIS integrates data that is currently located in more than a dozen separate data systems. The web-based system enables individuals from states, communities, facilities, and EPA to access integrated enforcement and compliance data from any desktop connected to the Internet. EPA's ability to target the most critical environmental problems will improve as the system integrates data from all media.

ICIS features include:

- Desktop access
- Internet access
- Integrated data
- Real-time entry and retrieval of data
- Powerful reporting capabilities
- User-friendliness

Inspection Conclusion Data Sheet (ICDS)

In FY 2002, EPA began collecting information on EPA NPDES compliance inspection outcomes using a manual ICDS form. In FY 2003, the Office of Enforcement and Compliance Assurance (OECA) launched ICIS to electronically capture compliance and enforcement information, including ICDS data. Regions have the option of submitting ICDS information by submitting summary information at mid-year and end-of-year to EPA Headquarters similar to other manually reported information or entering the ICDS data directly into ICIS. Regions must decide whether EPA inspectors or central data entry personnel will be responsible for entering the data into ICIS. If EPA inspectors enter the data, no manual ICDS form will be needed since the information to fill out the form should be included in the inspector's notes. If central data entry personnel enter the data, EPA inspectors should complete the manual ICDS form and forward it to their first-line supervisor for review prior to data entry into ICIS. The ICDS form is included in Appendix J.

H. REFERENCES

Suarez, J.P. (2003). *Role of the EPA Inspector in Providing Compliance Assistance During Inspections*. U.S. Environmental Protection Agency Memorandum, Final National Policy.