

Fundamentals For Conducting Compliance Inspections

- ☞ Roger Reinhart
- ☞ U.S. EPA Region 3
- ☞ June, 2018



Inspection Goal

- ☞ To gather information (evidence) that can be used for determining compliance.
 - program regulations
 - permit conditions
 - Enforcement actions / remediation
 - closure requirements
 - mechanical integrity tests



Fundamental Inspection Issues

- ☞ Information may be used in enforcement case development, always so be up-front with the operator.
- ☞ Inspectors must adhere to standard procedures concerning **technical, legal, safety and quality control** issues.



Components Of An Inspection

1. Pre-Inspection Preparation
2. Entry Procedures
3. Opening Conference
4. Facility Inspection
5. Closing Conference
6. Follow-Up Activities



Pre-Inspection Preparation

- ☞ Establish Purpose & Scope
- ☞ Review Background Information
- ☞ Develop Inspection Plan
- ☞ Announced vs. Unannounced ?
- ☞ Necessary Equipment / Staff
- ☞ State involvement – joint inspection?
- ☞ Safety Considerations



Entry Requirements

1. Present Inspection Credentials

2. Present Notice of Inspection

(SDWA 1445)

☞ Never sign a waiver or release which relieves facility of responsibility for injury or use of information.

☞ Never allow anyone to photocopy your credentials.

☞ What to do if denied entry / access?



Warrants



☞ Denial of Access / Problem Site /
Need for Surprise

☞ Work with Regional Attorney



Warrants



☞ Information Required

- detailed location of site / facility
- owner or operator
- reason for inspection under warrant
- safety concerns? Federal marshal?
- what inspection will entail
- time and date for inspection
- all personnel who will be at site



Opening Conference

- ☞ Discuss **Purpose** and **Scope** of inspection. What programs are represented. What are the objectives.
- ☞ Confirm and/or establish background information.
- ☞ Notify operator of options.
- ☞ Ask about **safety** requirements and concerns.
- ☞ Establish working relationship with operator.



Providing compliance assistance during an inspection

- ☞ Final National Policy - June 25, 2003
- ☞ Definition: providing tools or regulatory assistance to the facility during an on-site compliance inspection to help the facility understand and comply with federal environmental regulations and requirements.



Appropriate Compliance Assistance

- Providing copies of environmental statutes/regulations
- Information on obtaining EPA assistance
- Providing literature on pollution prevention techniques / environmental best management practices / (“BMPs”)
- Avoid site-specific, interpretive technical assistance



Facility Inspection

- ☞ Gather information about processes, monitoring equipment, wastewater generation, treatment, etc.
- ☞ Interview employees.
- ☞ Review records, operator logs, etc.
- ☞ Take photos to support your findings.
- ☞ Collect samples.
- ☞ Think Multi-Media – *Take off the blinders*





Document your Findings



- Record time, date, location, conditions
- Record all steps of your inspection
- Specify types of instruments used
- Identify everyone you meet or talk to
- Write everything down
- Record observations, *not conclusions*

DOCUMENT DOCUMENT DOCUMENT



Conducting Interviews

- ☞ be friendly yet professional - show respect
- ☞ develop “rapport” with interviewee
- ☞ start general → more detailed questions
- ☞ name, title, responsibilities, time employed
- ☞ never imply guilt or negligence
- ☞ use clear, straight-forward questions
- ☞ notes should reflect exact language



Closing Conference

- ☞ Confirm Inspection Information
- ☞ Clarify Issues of Concern
- ☞ Describe Follow-up Actions
- ☞ Refrain from discussing Enforcement and Legal Consequences
- ☞ Never recommend specific consultant or service company



Closing Conference (cont'd)

- 👉 Never tell the o/o they won't be subject to enforcement action if they correct problem.
- 👉 If you observe an imminent endangerment, you must notify operator during inspection and report findings to supervisor.
- 👉 You may share info about facility's compliance status, but be discrete.
- 👉 Ask operator for their questions & concerns.



CHAIN OF CUSTODY

Evidence gathered

Evidence introduced at hearing



Chain of Custody

Two Parts

Maintaining custody of the evidence



Documenting that evidence was maintained



Chain of Custody



It's about control

- ☞ Demonstrate the credibility of evidence by proof of **chain of possession** and **proper handling** of evidence from time of **collection** through **transportation, analysis, to presentation**

Chain of Custody

- Standard forms and procedures
- Tamper-proof seals
- Certified labs
- Document time, date, personnel, labeling of containers, description of contents, signatures



Somebody should be able to testify to proper handling of physical evidence



Confidential Information

☞ Personal info - name, SSN, residential address, birth date. (PII)



☞ Pertains to the interests of a business

Commercial / financial information may be privileged or confidential, trade secrets. (CBI)

Consult with Regional Counsel

Personal liability for disclosure



Follow-Up Activities

- ☞ Prepare Inspection Report
- ☞ Request Additional Information (40 CFR 144.27 and 144.51 for UIC)
- ☞ Determine Program Compliance
- ☞ Initiate Enforcement or other Appropriate Action as necessary



Field Notes

- ☞ Log Books
- ☞ Corrections to Field Notes
- ☞ Use of Checklists and Standardized Forms
- ☞ Documentation of Findings (Be objective - Stick to the Facts)
- ☞ Be Comprehensive, Descriptive, Objective



Tips For Writing Inspection Reports

- ☞ Be Descriptive and Accurate
- ☞ Be Comprehensive
- ☞ Be Objective – no opinions or speculations
- ☞ Use Photos and Diagrams
- ☞ Think Multi-Media
- ☞ “An Inspector’s credibility is reflected by their Inspection Report”



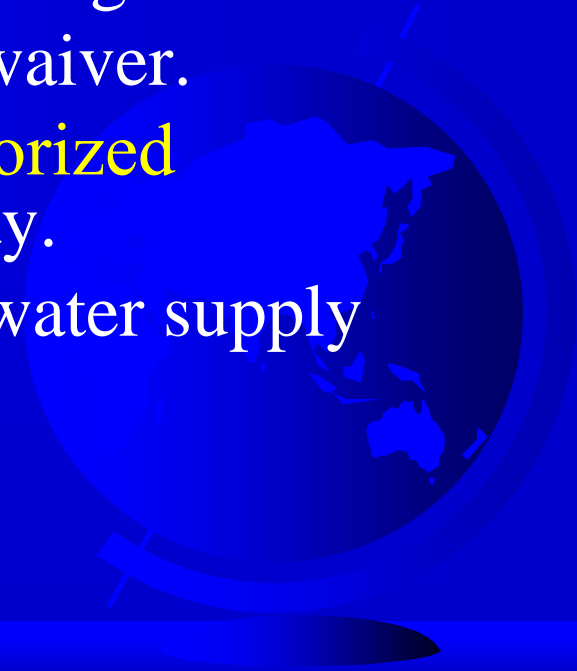
Elements Of An Inspection Report

- ☞ Background Information
- ☞ Facility/Operator Information
- ☞ Documentation
- ☞ Monitoring Information
- ☞ Findings (based on facts, avoid subjectivity)
- ☞ Attachments (photo log, maps, sampling results, etc.)



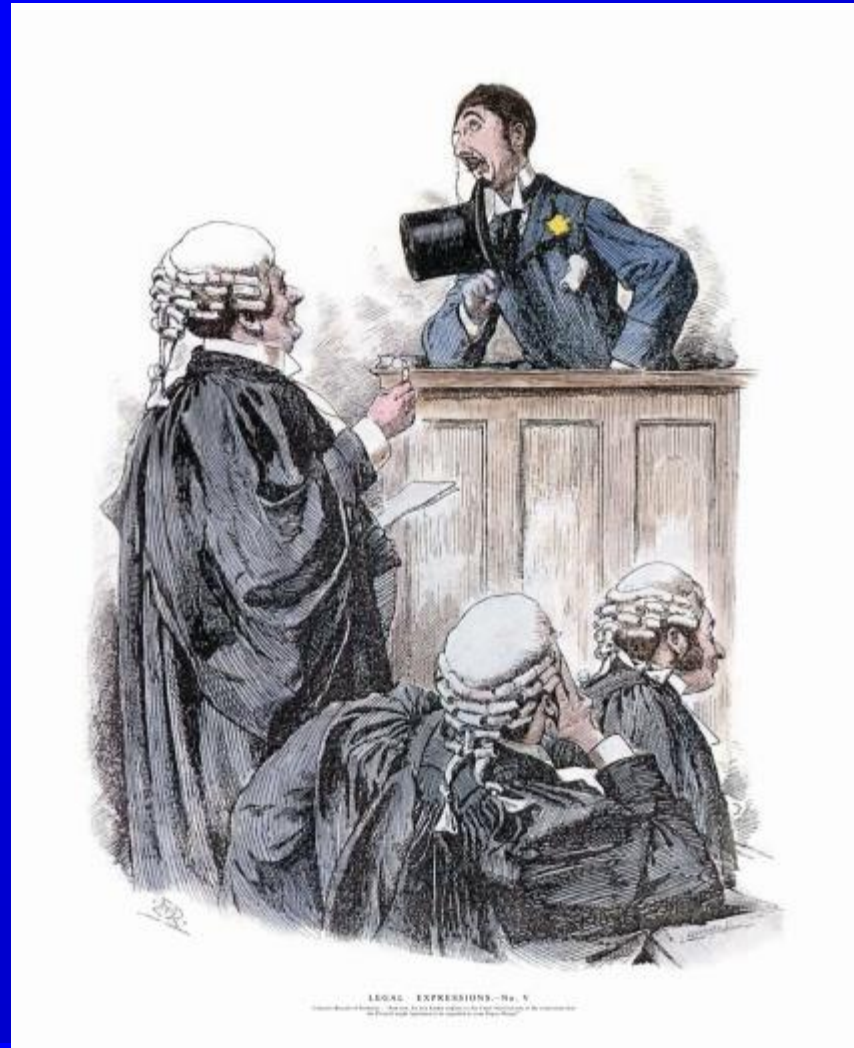
Inspection Scenarios

- Upon unannounced inspection, operator denies you access because “he’s busy”.
- Operator requests that you watch safety training video prior to entry.
- Operator restricts or denies photos being taken.
- Operator requires inspector to sign waiver.
- Inspector receives report of “unauthorized injection” at an oil production facility.
- Inspector receives report of private water supply well contaminated with benzene.





Administrative Hearings



Being a Witness

Two kinds of Witnesses

Fact Witness



Expert Witness



Being a Witness



Know your documents

Mock direct and cross examination

Work closely with Regional Counsel



Being a Witness

- ☞ Dress appropriately
- ☞ Maintain a serious demeanor
- ☞ Listen and understand the question before you answer
- ☞ Do not get angry on cross
- ☞ Tell the truth



Go forth



and do good

