

# Fundamentals For Conducting Compliance Inspections

Roger Reinhart

215-814-5462

U.S. EPA Region III

July, 2019



# 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
- Necessary Equipment / Staff
- State Involvement – joint inspection?
- Safety Considerations
- Develop Inspection Plan
- Announced vs. Unannounced ?



# Entry Requirements

1. Present Inspection Credentials

2. Present Notice of Inspection (SDWA 1445)

- ▶ Never allow anyone to photocopy your credential.
- ▶ Never sign a waiver or release which relieves facility of responsibility for injury or use of information.
- ▶ 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

1. Discuss **Purpose** and **Scope** of inspection.  
What programs are represented. What are the objectives.
2. Confirm / establish background information.
3. Notify operator of their options.
4. Ask about **safety** requirements and concerns.
5. 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 or (“BMPs”)
- Avoid site-specific, technical advice



# Facility Inspection

- Gather information about processes, waste generation, treatment, monitoring, etc.
- Interview employees.
- Review records, operator logs, etc.
- Take photos and use diagrams to support 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***



# 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 reliability 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 (PII) - SSN, personal address, birthdate, health information
- Confidential business information (CBI)

Pertains to the interests of a business  
Commercial / financial information may be privileged or confidential

*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 if a violation



# 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 comprehensive, descriptive, objective
- Use clear, precise terminology
- No speculations
- Use Photos and Diagrams as necessary
- Think Multi-Media
- “An Inspector’s credibility is reflected by their Inspection Report”



# Typical Elements Of An Inspection Report

- Background Information
- Facility/Operator Information
- Personnel – Facility and EPA/State
- Documentation and Findings of Fact
- Attachments (photos, maps, sampling and monitoring 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.
- 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



Key to being a good 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
- Tell the truth





Go forth



and do good

