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?





- 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.
- 2. Confirm / establish background information.
- 3. Notify operator of their options.
- 4. Ask about safety requirements and concerns.
- 5. Establish working relationship with operator.

<u>Providing compliance assistance</u> <u>during an inspection</u>

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 <u>Assistance</u>

- 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 <u>must</u> 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.



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

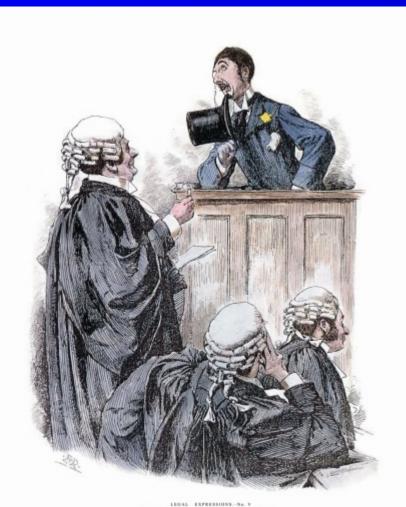
- Background Information
- Facility/Operator Information
- Personnel Facility and EPA/State
- Documentation and Findings of Fact
- Attachments (photos, maps, sampling and monitoring results, etc.)

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



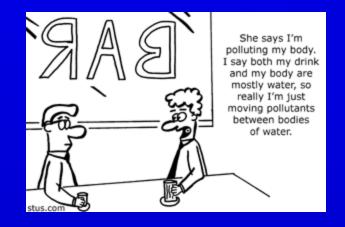
LEGAL EXPRESSIONS.-No. V Constituted from the second secon

Being a Witness

Two kinds of Witnesses

Fact Witness





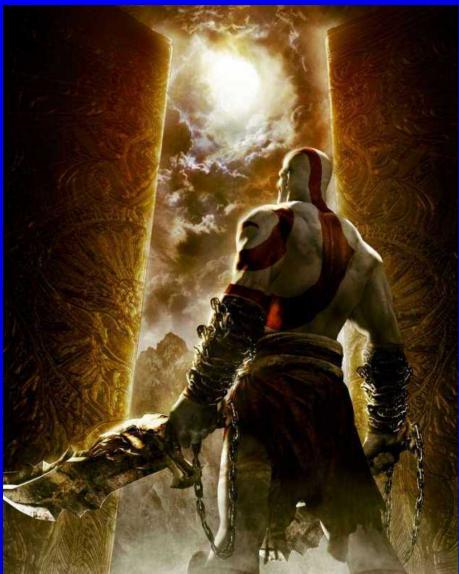
Being a Witness Key to being a good witness *Preparation* Know your documents Mock direct and cross examination Work closely with Regional Counsel

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