

# WHAT TO DO WHEN AN EPA INSPECTOR APPEARS AT THE PLANT GATE

## Eight Critical Steps to Take



*At any time, the U.S. Environmental Protection Agency (EPA) or your state environmental agency may send an inspector to your plant as part of their compliance programs. It is of critical importance to be prepared in advance for such a visit, in the event that regulatory violations are found.*

If you have not already done so, assign primary responsibility for interacting with the inspector to a designated facility representative. He or she should be a representative of management and should be familiar with applicable regulations and with the plant's compliance program. This individual should be prepared to take these key actions if an inspector visits:

**1. Elicit basic information.**

Ask to see the inspector's credentials and write down the relevant information, including the inspector's name, agency affiliation, address, telephone number and the statutory authority under which the inspection is being conducted.

**2. Advise legal counsel of the inspection.**

It is a good idea to contact your lawyer early in the inspection and inform him or her as to what you have learned about the inspector's purpose. Counsel should remain available by telephone during the duration of the inspection, to answer any questions that may arise.

**3. Accompany the inspector during the inspection.**

Insist on being present for any in-plant interviews that the inspector conducts. If this is impossible, make sure to debrief interviewed employees as soon as practicable following the interview. Ask the EPA inspector for a written notice listing the criteria for legal protection of any information that you would like to claim as confidential. That way, you can provide on-the-spot notice to the inspector as to potentially sensitive information (such notice may prove useful down the road for purposes of confidentiality claims).

**4. Do your best to document the inspection.**

Take notes during the inspection.

- What is seen
- Who is spoken to
- What is said
- Any samples that the inspector collects
- Any documents that the inspector reviews or copies

Consider suspending note-taking during the closing conference at the facility, in order to induce the inspector to be more open regarding his preliminary findings, as statements made at the plant may prove useful in a potential penalty case.

**5. Be careful in responding to the inspector's questions.**

Respond to reasonable information requests to avoid provoking EPA into the use of other investigative powers. However, do not volunteer information and avoid statements that may be construed as admissions of non-compliance. When in doubt on any question the inspector asks, do not answer. Instead, ask the inspector to put the question in writing, addressed to the company counsel.

**6. Make duplicates of any documents copied.****7. Request that the inspector provide:**

- Samples of spilled materials
- WEPA's laboratory reports
- Copies of photographs
- Copies of recorded statements
- The inspector's report

**8. Prepare a memorandum of the visit as soon as the inspector leaves.**

Contact counsel in order to prepare for the consequences of the inspection. Did the inspector reveal his discovery of any violations? If so, these should be verified and corrected immediately, and appropriate memos to the file made to document the correction. It also is helpful to write the inspector advising him of the correction.