What to do when the government comes calling: A checklist for handling facility inspections

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by Joe Kellmeyer and Ryan Russell Kemper

It's a sunny Friday afternoon and you're at your desk looking forward to your weekend plans when you get a call from security: Government inspectors are at the front gate and want to perform an inspection of the facility — right now. What do you do?

Thankfully, as a result of careful planning, your weekend is not ruined. You reach into your desk drawer, pull out your inspection kit and the checklist below — which you are quite familiar with, having already completed the pre-inspection planning — and stroll confidently out to greet your visitors

Pre-Inspection Planning

- [ ] Designate an employee team that will guide the inspectors.
- [ ] All members of the employee team should know the location of permits and documents required to be immediately available at the facility. All logs should be updated and accessible.
- [ ] Establish an inspection kit, including:
  - — Note pads, pens, tape measures;
  - — Emergency contact list;

— Sampling instruments and tools specific to the facility (test strips, air sampling equipment, decibel meters, etc.); and

— Copy of this checklist.

Inspection

- ☐ Notify the designated corporate contact person when inspectors arrive.
- ☐ Always be courteous and calm.
- ☐ Always answer questions truthfully.
- ☐ Do not make statements that are beyond your knowledge: "I don't know, but will find out and follow up with you after the inspection" is an appropriate response if you are uncertain.
- ☐ Ask for credentials and copy inspector information. If a subpoena is presented, copy it.
- ☐ If possible, arrange for an opening conference with inspectors:
  - — Discuss the reason for and the scope of inspection;
  - — Discuss records to be reviewed or needed;
  - — Plan the inspection route and check/distribute personal protective equipment; and
  - — Take notes.
- ☐ Guide inspectors through the facility.
- ☐ Two employees should accompany the inspectors at all times.
- ☐ If records are requested, make copies. If any samples are taken, request split samples or take your own samples using the equipment in the inspection kit.
- ☐ Take notes throughout the inspection.
- ☐ Ask for a closing conference. Ask the inspectors to identify any deficiencies found and provide a copy of the inspection report.

Inspection Follow-Up

- ☐ Interview any employee(s) with whom the inspectors had contact.
- ☐ Contact outside legal counsel and collect your team's notes regarding the inspection, including details of all areas visited and all documents reviewed, notes of all employees interviewed, and descriptions and/or copies of all samples and photographs taken.
- ☐ Remedy all identified violations or issues of concern as soon as possible and track all steps taken to address the issues.

To effectively manage a government inspection, it is important to remain calm and maintain control of the process. Representatives of the company should be cooperative and courteous, but not allow the government inspectors to exceed their authority and the scope of the inspection. Legal counsel should be involved at the earliest opportunity. Any statements made to the inspectors can, and likely will be, documented by the government inspectors and later used in their report or in an enforcement action. Finally, above all else, all management, staff and employees should be truthful — to do otherwise may result in criminal liability or enhanced civil enforcement.

This article is not intended to provide legal advice. Please consult an attorney to advise you whether these ideas might help your particular situation.

If you have questions regarding this checklist or environmental inspections generally, please contact Joe Kellmeyer or Ryan Russell Kemper in ***Thompson Coburn's environmental practice area****.*

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