



# When Government Visits

HOW TO PREPARE FOR AND SURVIVE AN INSPECTION



WALDEN ENVIRONMENTAL  
ENGINEERING



## INTRODUCTION:

# The Importance of Knowing What Regulations Apply to Your Facility

As a facility owner, you're already an expert in the production or manufacturing processes you oversee – but what about all the regulations that apply to your facility?

With so many other tasks and responsibilities requiring your attention on a daily basis, it's easy to let preparing for an inspection fall down on your list of priorities. Plus, there's often a fairly steep learning curve to understanding the complicated nature of regulations, making staying on top of the regular reporting demands and changes even more challenging.

Unfortunately, by failing to make inspection preparation a priority, many facility owners are unknowingly putting their business at risk of costly violations, more frequent future inspections and, most importantly, potential safety hazards. Since eventually undergoing a government inspection is a foregone conclusion, how can you best determine what regulations apply to your facility and ensure you're as prepared for an inspection as possible?

## DETERMINING WHICH REGULATIONS TO FOLLOW

First thing's first: in order to know which regulations your facility needs to follow, you have to identify what agencies have jurisdiction over your facility — and for what purpose.

For instance, there are different levels of regulatory agencies and the requirements they enforce vary from state to state. Federal agencies publish both federal regulations that you may need to comply with, as well as directives for lower level agencies to regulate and enforce. Next, there are state regulations, some of which are mandated by the federal government, but enforced on the state level. Depending on your location, you may also have county, town, or city regulations. For example, facilities located in New York City have specific New York City regulations.

Now, this is where understanding exactly what regulations your facility needs to comply with becomes especially complicated. Your facility may be responsible to two different jurisdictions that require two slightly different

regulations for the same action. Let's say, for instance, that your facility in New York City is emitting an air pollutant. In order to be compliant, you need a permit from the city to emit the air pollutant — but that's not all. You may also need a separate permit from the state. That means two separate permits, two separate forms, two separate rules, and two separate agencies to comply with. This same type of scenario can also arise when determining state building codes and state fire codes.

Once you figure out which jurisdictions apply to your facility, then it's time to research the specific rules and regulations of those jurisdictions. In order to ensure you are clear on what the regulation requires and how to put it into action in your facility, you need to be at least somewhat familiar with how to read regulations. Since the language can be complicated and confusing, this adds an extra challenge for some facility owners.

And, unfortunately, this isn't the only challenge you'll face.

### THE CHALLENGE OF FOLLOWING REGULATIONS

Even once you've identified the specific rules and regulations your facility needs to follow, you may face the added challenge of determining the most recent, up-to-date version of those rules. Since regulatory agencies are constantly revising and changing rules, there may be a new element to the revised version that you aren't aware now applies to your facility.

This leads to a related challenge: keeping up with regulation changes. While most agencies put out documents and notices of rules updates, these aren't always easy for facility managers to follow. For instance, the federal register puts out an index every day, which includes the current proposed rules and regulations for every federal agency. Individual agencies might put out their own regular updates; the New York State Department of Environmental Conservation (DEC) has a weekly environmental notice bulletin that publishes all new rules. In most cases, the information is out there — the challenge is knowing where to look and keeping up with unexpected updates.

One of the biggest challenges to staying on top of government regulations and preparing for an inspection is this simple fact: ignorance is not an excuse. Not knowing that a certain rule applied to your facility or missing an important update does not absolve you of responsibility and will not keep your facility from receiving a violation. For example, the Occupational Safety and Health Administration (OSHA) has a regulation that if your facility uses a machine with an operator, you must have certain guards on the machine to ensure the operator is protected. It does not matter whether or not you are aware of this rule — if an inspector arrives at your facility and sees machinery without the proper guards, your facility will receive a violation.

### COMBATTING CHALLENGES

However, here's the good news: you don't have to figure this all out alone. Consultants have the background, knowledge, and resources to navigate the red tape of regulations and inspection preparation. A health and safety or environmental consultant can assist in determining exactly which rules and regulations your facility needs to comply with, as well as track agency changes to ensure you always have the most up-to-date information.

In addition to seeking the help of a trained consultant, there are other ways you can make sure your facility is as prepared for an inspection as possible. Throughout the next several chapters, we'll discuss pre-planning strategies, what to do when an inspector shows up, post-inspection strategies, how to handle a violation, and the importance of record keeping. Read on to learn our best tips for how to prepare for and survive an inspection.



## CHAPTER ONE:

# Pre-planning and Preparation

**Regardless of whether government inspections are scheduled or unannounced, they are inevitably a source of stress for facility owners.**

If you're unprepared, you could leave your facility vulnerable to costly violations and more frequent inspections in the future. And even if you think you're prepared, chances are there's still some aspect of the process you'll wish you'd thought about in retrospect.

That's why taking the time for pre-planning and preparing for an inspection is so important to the continued operations of your facility. When you're as prepared as possible for an inspector to walk through the door, you stand a greater chance of getting through the inspection with positive results and minimal to no violations.

Here are three key areas to focus your inspection preparation efforts:

### CONDUCTING A SELF-INSPECTION

Before an inspector comes to ensure you're complying with the regulations for their specific agency, it's important to take the time to conduct a self-inspection. During this process, you can walk through everything an inspector would do to see how your facility would fare. This allows you to catch and correct any slip ups before there are any consequences.

If you don't feel up to the task of conducting a self-inspection, you can hire a consultant to conduct it on your behalf. That way, you'll get a true outsider perspective who is on your side and won't have to worry about potentially overlooking important details.

### PREPARING YOUR PEOPLE

Every single person at your facility should know exactly what protocol to follow if an inspector arrives. Establish a clear plan that if an inspector shows up unannounced, they are to be escorted to the main office. No employees

who aren't prepared and trained to walk the inspector through the purpose of their visit should attempt to do so. This could lead to giving the inspector information they don't need or you don't want them to know. Instead, an assigned management escort should be designated to walk the inspector through their visit.

It's also essential that all of your employees know not to speak to an inspector without the management escort present. An inspector may attempt to talk to your employees and ask questions while being escorted to the office. Train your employees to politely decline to answer any questions — walking the fine line of accommodating the inspector, but adhering to protocol.

As you're preparing your employees, remind them that inspectors may not behave like you expect them to. Some may not come in the front door. Some may issue an order to the first person they see, and then leave. For instance, in New York City, the fire department is allowed to walk in any door and issue an order to any employee they see. That order is then binding for your facility, so your employees need to know how to handle that situation should it arise.

Lastly, make sure you inform your employees about their rights pertaining to an inspection. For instance, they may have the right to refuse an inspection. However, since the inspection will have to be rescheduled, this is not advised. An inspector who has to return to your facility after being turned away once is more likely to conduct your inspection with increased scrutiny.

By establishing these protocols — and reviewing them frequently — you can have confidence that your employees know what to do when an inspector arrives.

## PREPARING YOUR FACILITY

The best rule of thumb is to go into each day assuming your facility is going to be inspected. With this mindset, you won't have to worry about being caught unprepared by a surprise inspection.

In order to have a prepared facility, there are a few items you'll want to keep on hand:

- **An inspector/visitor log.** On the first page of the log, write, "All inspectors/visitors are required to log in and out in this book." Then, prepare columns for date, time arrived, name, badge number, agency, purpose, signature, time left and comments. This ensures you will always have accurate information readily available.
- **PPE(s) and important documents.** You'll need to have all personal protective equipment used by your employees on hand and available for the inspector to see. Additionally, make sure all important documents are well-organized and easy to find quickly.
- **Plastic and glass sampling containers.** If your facility has a wastewater permit, you'll want to keep sampling equipment on hand. This allows you to take a sample at the same time as the inspector to ensure accuracy.
- **A camera.** The inspector will likely take pictures during the inspection. By having a camera readily available, you can take pictures at the same time and have dated proof in case you need to later file an appeal. While you can certainly use your cell phone camera, it doesn't hurt to have a designated camera with fresh batteries available to grab in a pinch.

First impressions with inspectors can help set the tone of the entire inspection. By preparing for an inspection with your employees, you'll give the first impression of being confident and capable. This can help take the pressure off of random inspections and allow you to get back to the business of running your facility.



## CHAPTER TWO:

# What to Do When an Inspector Shows Up

The moment you've been preparing for is finally here: government inspector has arrived at your facility to determine if you are compliant with their agency's regulations.

Luckily, if you've done the work of knowing what regulations apply to you and prepared both your employees and your facility, there's no reason to panic.

Follow these steps of what to do — and what not to do — when an inspector shows up.

### WHAT TO DO

- 1. Escort the inspector to the main office to meet with the management escort.** As part of your inspection preparation, a management escort should already be identified and all employees should know not to answer any questions from the inspector, aside from showing them to the office.
- 2. Request a business card and employee ID or badge from the inspector and inquire about the nature of the visit.** You'll want to know in advance whether this inspection is as a result of a complaint or just a random program inspection. At this point, you should have the inspector fill out your visitor's log and you should begin taking notes.
- 3. Escort the inspector to a specific site, such as a conference room, to discuss with facility personnel (the EHS Manager) the purpose of their inspection before taking him or her to the area in need of inspection.** Keep in mind that you do not have to show the inspector any other part of your facility other than the specific part they are there to see. Since you will be leading the walk through, you can choose to take a route that shows the inspector the smallest amount of plant operations as possible. It is even within your rights to take the inspector outside and around to a back door if the area they need to see is more accessible from that entrance.

4. **If the inspector needs to take samples, tell them you need to take split samples.** You will likely need to supply your own bottles for the sampling, but an inspector cannot refuse a request for split sampling. If they do refuse split sampling, do not allow any sampling to take place. If this occurs, you'll need to write a memo detailing the inspector's refusal and sign it along with a witness.
5. **If the inspector takes photos, take the same photos with your camera.** Alternatively, you can also offer to take the photos yourself and provide the inspector with prints. In some cases, you may want to take your own photos, regardless of whether the inspector is taking photos.
6. **Take notes throughout the inspection and be as detailed as possible.** Write down what the inspector sees and says, as well as questions asked and answered. Keep a list of all actions, such as photos and samples taken.
7. **Once the inspection is complete, escort the inspector back to the office and ask for an exit briefing, as well as any paperwork or documentation the inspector will be leaving with you.** At this point, make sure your notes from the inspection are clear and ask the inspector any clarifying questions you may have. Then, ask the inspector to sign out on your visitor's log and escort them out of the facility.

#### WHAT NOT TO DO

1. **Do not volunteer any information.** While with the inspector, make sure you are only answering questions that are asked of you. You should be clear, polite, and firm, but there is no need to volunteer additional information that the inspector isn't asking. This could result in revealing a potential violation that the inspector otherwise wouldn't have discovered.
2. **Do not argue with the inspector.** Appearing defensive or argumentative will only cause the inspector to be more suspicious and scrupulous during their visit. Instead, remain polite and accommodating, while also standing firm if you feel like your rights are being breached.

Different agencies will have different protocols and processes for completing the inspection, so don't expect each inspection to proceed identically. For instance, OSHA requires both an opening conference and a closing conference. During the opening conference, the purpose of the visit will be explained and the inspector will determine if any employees of other employers are currently working at your facility. While the opening conference is going on, it is a good idea to conduct a quick walkthrough self-inspection to ensure all workers are prepared and in compliance before the inspector begins their walk-around. During the closing conference, the inspector will share any apparent violations and follow-up information.

However, while this is the procedure for OSHA, keep in mind that not all agencies will offer a closing conference and you may need to wait to learn the results of your inspection. But don't worry — you'll have plenty to do to keep you busy while you wait. Read on to discover the steps you'll need to take post inspection.



## CHAPTER THREE:

# Post-inspection

The period after your inspection is complete is the perfect time to take a deep breath, get organized, and prepare for the next inspection.

The following tasks are best done immediately after your inspection while the information is still fresh. The longer you wait, the less likely you are to accurately recall everything that happened.

**The first step post-inspection is to begin preparing your own inspection report.** If you took photographs, get hardcopies developed and save a back-up digital copy. If you took samples, send them off for analysis. Then, gather everyone together who was involved in the inspection in any way — from the employee who first saw the inspector, to each person who was asked a question, to everyone who participated in the walk through. Compile a written recollection of events with everyone's input.

**From there, you'll also want to collect copies of any documents the inspector viewed,** as well as any other physical evidence that relates to the inspection or could help prove your compliance should you need to file an appeal. If you've been working with a health and safety or environmental engineering consultant, make sure you discuss your full inspection report and get their guidance on the next steps.

**Once you have compiled your full inspection report, it's time to start preparing for the next inspection.**

Make sure your supplies, like your sampling materials and camera batteries, are replenished and ready to be used again. Go through the inspection process with your employees and address any breeches in protocol or changes to procedure that you want to implement for next time. Everyone should be on the same page about what went right, what didn't go according to plan, and what could go better next time.

**Now it's just a matter of waiting for the inspection results.** Hopefully your facility passed with flying colors. But don't worry — if you did get a violation, the next chapter will instruct you on how to handle it.



## CHAPTER FOUR:

# If You Get a Violation

Inspection violations come in a variety of formats. In most cases, if it is a minor first violation and you take the necessary steps to correct the issue, you won't receive a fine. If you do receive a fine for a first time offense, it will likely be minimal.

Because of this, you probably will not need an attorney to respond to the violation, unless the fine and level of seriousness is substantial, or you would prefer for a lawyer to handle the bureaucracy side of resolving the violation.

However, first and foremost, before you get anyone else involved, take some time to review the violation. Look at what it says. See if the charge is correct based on the operations within your facility. Read up on the code that the violation references. Begin formulating a plan to address the violation. Gather up all of the information from your inspection report — interviews, documents, evidence — and figure out the answers to the following questions.

- **Does the violation include a fine?** If so, you'll want to fix the noncompliance as soon as possible. It isn't uncommon for agencies to make return visits or to share information with other agencies — and the penalty goes up if you receive a repeat violation.
- **What is the timeline for an appeal?** If you think the violation is unwarranted, you will have the option to appeal. However, appeals typically follow a very strict timeframe, so you'll need to be on top of this process from the very beginning. There will also likely be very specific procedures you have to follow or the appeal will automatically be denied.
- **What actions do you need to take to become compliant?** When resolving a violation, it is always best to be proactive. If you need more time to respond to a violation notice, be as up front as possible with an inspector and ask for more time. When you demonstrate that you are actively working to resolve an issue, an inspector will be more likely to work with you. Set a schedule to become compliant, then stick to it.

- **What changes do you need to make to your pre-planning procedures?** Now that you are through an inspection and have fixed any noncompliance, it's time to reflect on your pre-planning procedures. Consider what changes you need to make to be more prepared for your next inspection.

Above all, remember this: if you've received a violation, you can't just ignore it. Noncompliance issues must be fixed promptly and thoroughly, or the consequences could become much more severe.

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CHAPTER FIVE:

# The Importance of Record Keeping

Now that the stress and uncertainty of an inspection (and any resulting violations) are behind you, it's time to ensure your record keeping system is fully optimized.

Clear, consistent, and organized records are important for maintaining compliance and avoiding future issues. While some regulations require you to keep records for a certain number of years, it is recommended to maintain your records for a minimum of three years.

## WHAT DO YOU NEED TO INCLUDE IN YOUR INSPECTION RECORDS?

In short: everything. Include your full inspection report, along with all physical evidence, photographs, narratives from employees, communications with the inspector, and a copy of your visitor's log from the day of the inspection. If the inspection resulted in a violation, include the process and proof of fixing the non-compliance. If you had to purchase new equipment, include the receipt of purchase and photographs of the installation.

When it comes to providing a record of a government inspection, the more detail you can provide, the better. If you aren't certain whether or not something should be included in your records, go ahead and put it in. It's better to err on the side of caution and have too much information than risk leaving something important out.

## WHAT ARE SOME TIPS FOR MAKING RECORD KEEPING EASIER?

Diligent record keeping can be intimidating, even for the most organized facility manager. Luckily, there are habits you can get into that will ultimately make the process easier.

- **Type everything up.** Even if a handwritten statement is readable to you now, it might not be as easily decipherable when you are reviewing the same document two years from now, without the inspection fresh in your mind. Eliminate the possibility of handwriting confusion and type any important statements.

- **Consider going digital.** If space is an issue, you can scan in your entire inspection report and keep a digital copy. While you'll still want to hold on to the physical copies for the minimum length of time, digitizing your records can allow you to more easily store the information you need for longer.
- **Make your records easily accessible.** You don't want to have to dig through unlabeled and unorganized file cabinets. Instead, create a recording keeping storage system that is easy to utilize.
- **Include a table of contents.** This ensures you'll always know what everything in the file is and won't have to wonder where certain pieces and documents came from when you're reviewing the record after time has passed.

#### WHY IS RECORD KEEPING SUCH A BIG DEAL?

A detailed inspection record can end up benefitting your facility financially or helping you out of a bind. Consider these two scenarios:

- **Two years after your first inspection, the inspector returns and believes you have a repeat violation.** However, thanks to your records, you can prove that the first noncompliance was an entirely different issue. This can help prevent a new fine or a more expensive repeat fine.
- **Think back to our introductory example.** An OSHA compliance officer gives your facility a violation for not having a machine guard on a piece of equipment. You take the proper steps to add the guard and become compliant, but an employee still gets injured operating that machine. In this case, your inspection records could help you avoid a costly lawsuit.

Think of your inspection records as added insurance against future issues. When it comes to avoiding costly fines or potential lawsuits, you can never be too careful.



# Conclusion

The process of preparing for and surviving a government inspection is complicated and time consuming. However, avoiding the consequences for not preparing makes the effort well worth it.

If you are overwhelmed by the thought of all the federal regulations, state regulations, and local regulations your facility needs to follow, don't hesitate to seek the assistance of an expert. Trained health and safety and environmental consultants can help you through the entire process — from determining which regulations apply to your facility, to preparing your facility, to handling an inspection, to the post-inspection requirements. You'll have the knowledge you need to remain compliant and the support you need to handle whatever comes your way.

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