

Knock, Knock...Tips for Managing a Regulatory Inspection

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Many state and federal regulatory agencies, including OSHA, EPA, and the Wisconsin Department of Natural Resources, may inspect a business with or without advance notice to ensure compliance with applicable rules and regulations. Here are a few tips to help ensure that your inspections go smoothly.

Before an inspection. As the saying goes, *to be prepared is half the victory*. Plan for an inspection before it occurs:

- conduct internal audits of compliance
- keep relevant documents organized
- e.g. permits, sampling data, compliance documents
- keep attorney-created documents separate, marked “privileged”
- create an inspection plan
- designate a facility contact and his/her backup
- identify where relevant records are located
- identify where monitoring and sampling equipment are located
- have a notepad and camera ready
- train employees to:
 - know the inspection plan
 - know his/her authority to give information and make commitments
 - notify your legal and environmental teams

With *advance notice*, consider discussing the inspection with the agency, including:

- verification of the inspector’s identity
- purpose: complaint or routine?
- scope: who/what will be interviewed/ inspected?
- trade secrets requiring protection
- required safety procedures

PROFESSIONALS

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Practice tip: You can refuse entry, but the inspector probably will be back with a warrant, and you may have damaged your working relationship. Consider asking to reschedule an inopportune inspection. Also consider rescheduling if:

- the inspection requires clearance by Homeland Security
- there are safety concerns to address
- you want to speak with legal counsel

During an inspection. Employees should know the procedure for an inspection. Key points are:

- get the inspector's card, verify identity and authority
- request a copy of any warrant
- take notes on areas inspected, records copied, comments/questions by inspector
- be truthful, but do not volunteer information and do not guess
- observe all safety procedures

After an inspection

- request a closing conference with the inspector
- what were the results of the inspection
- what are the next steps
- prepare an internal memo, including:
 - copies of pre-inspection communications
 - participants of the inspection
 - areas examined
 - employees interviewed
 - information requested
 - testing/sampling performed
 - permits examined
 - violations/problems noted
 - action required
- involve your legal and environmental teams in compliance investigations
- create a response plan
- implement corrective action
- keep the agency informed of your progress
- record your efforts, costs expended, and dates of compliance
- advise the agency of completion