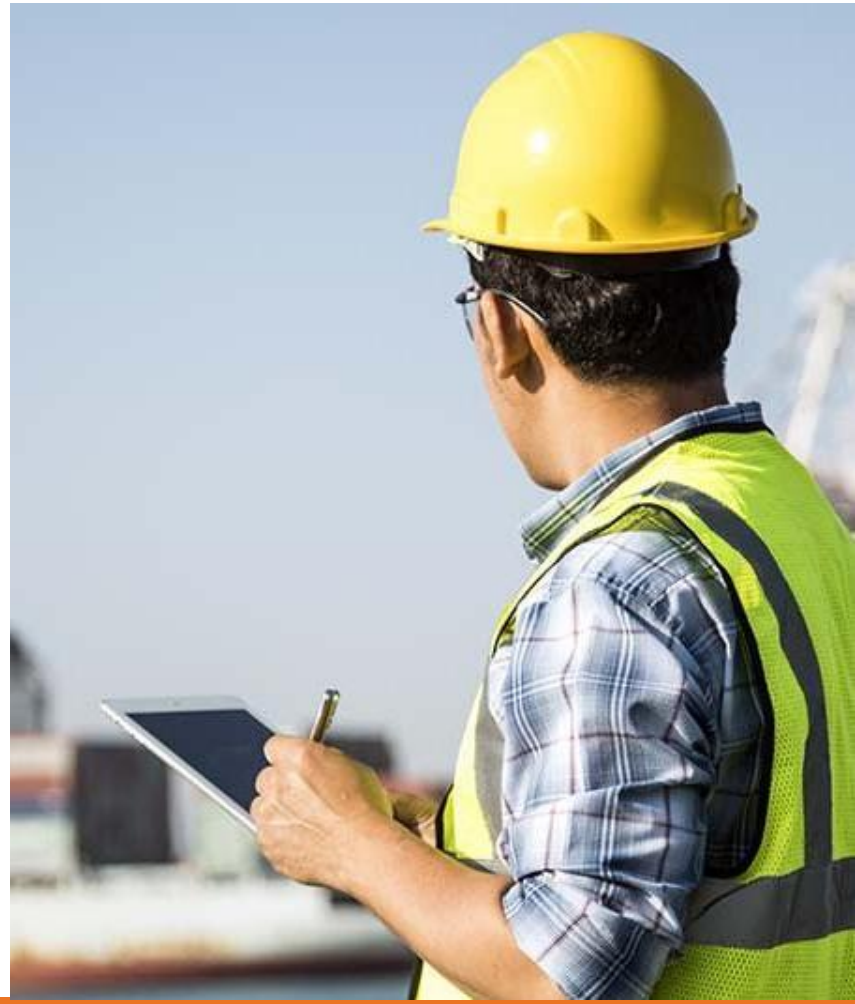


PREPARING FOR A MULTIMEDIA EPA INSPECTION

WELCOME, INTRODUCTIONS & OVERVIEW

- Welcome
- Introduction
  - Liz Hillgren: Michigan, 20+ years experience, TSD work & consulting
  - Becky Andersen: Iowa, 20+ years experience, EPA penalty negotiations & consulting
- Goals & Agenda: ACTION ITEMS & SOLUTIONS
  - Overview of current activity
  - Understanding generator status
  - Prepare your facility
  - Steps to take NOW!
  - Actions immediately before & during an inspection
  - Actions & process after an inspection
  - Summary review
- This is not all-inclusive!
  - Address the inspection at a high level
  - Provide you with guidance based on our experience

We have designed this with the expectation that the participant understands the basics of RCRA. If you do not have such understanding, please reach out.

STEP 1: AN OVERVIEW OF EPA ACTIVITY

OVERVIEW OF CURRENT STATE

- Little to no EPA regulatory enforcement since 2016
- Iowa is a prime target & “special” – other states have state programs
  - IA directly reports to EPA for RCRA – there is no state agency “buffer”
  - EPA tends to start with RCRA & then work to other codes (CAA, CWA, EPCRA, SPCC, SWPPP, CERCLA, TSCA… they may also include OSHA, IFC, NFPA, others)
- EPA-contracted inspectors have been visiting facilities again
- EPA is sending out Request for Information letters
  - Focused on Clean Air Act (CAA) & Emergency Planning (PSM/RMP)
  - Also uptick in Clean Water Act (CWA) & Storm Water violations (SWPPP)
- We have seen an increase in overall activity
- IS YOUR FACILITY PREPARED FOR AN EPA INSPECTION?

WHY SHOULD I CARE ABOUT ENFORCEMENT?

- EPA is committed to enforcement
  - Primary method of collecting compliance monitoring data is through inspection
  - EPA is “mining” data & sending out letters of inquiry – we have seen HUGE uptick
- Penalties may be severe!

- Civil penalties
  - $74,552/day per violation for non-compliance (2020 Subtitle C violation)
    - This increase took place in July 2016 from the long-standing $37,500/day/violation
- Criminal penalties
  - 5 years &/or $50,000/day if knowing alteration, destruction, or concealment of records, shipping hazardous waste without a manifest, shipping hazardous waste to an unpermitted facility
  - 15 years &/or $250,000 or $1,000,000 (organization) for knowingly endangering others

- Revocation of permits

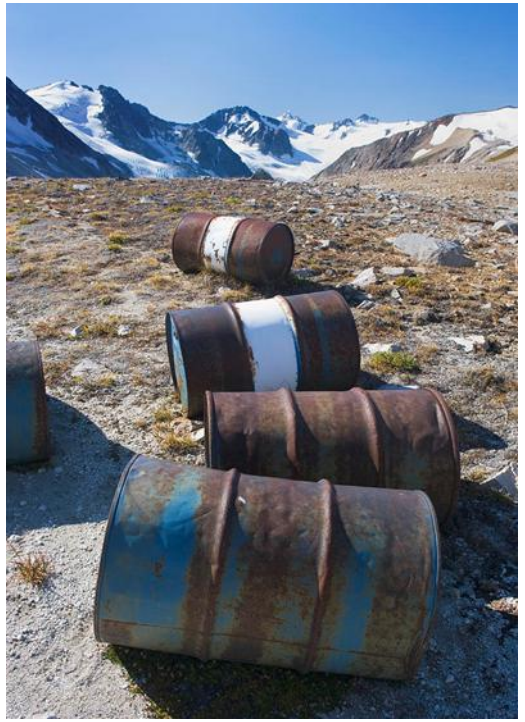
WHAT IS THE INSPECTION PROCESS?

- Inspections may be SCHEDULED – **Make sure you are checking your voicemail!**
- Introductions – Minimize people in the room. Share the facility layout/restrooms; offer them water/coffee/beverage. BE NICE.
- Site walk-though – Show them what they ask to see. Allow them time to look. Take supplies with you to fix any identified errors. Have a scribe documenting everything.
- Interviews – Answer what they ask. Be direct & honest. Do not provide unrequested information.
- Paperwork review – Ensure paperwork is organized & easily accessible. **The types of records they may wish to see are covered in more detail later.** Have paper copies. Be prepared with copies for them.
- Closing meeting – They will document findings & give you a copy. They will likely ask questions after the inspection & could issue additional findings. Findings are NOT penalties.

The length of time they spend onsite will depend on what they find & the size of your site. They may take copies of records with them. They may come back to follow up on other items.

A BRIEF REVIEW OF RCRA

- Regulations addressing hazardous, universal & solid waste management (Resource Conservation & Recovery Act - 40 Code of Federal Regulations)
- Extent of inspection is based in part on generator status: VSQG, SQG & LQG
- Increased hazardous waste generation = increased regulatory burden
- Regulations review of RCRA: ALL things waste-related
  - Cradle-to-grave responsibility, due diligence for end destination, documentation trail
  - Training & program documentation requirements vary with generator status
  - Regulated areas include waste characterization, labels, container integrity, lids, aisle space, inspection protocols, SAA & CAA areas, employee training, employee responsibilities, segregation & proper management of differing hazard classes, LDRs, etc. (THAT IS A BIG ETC.)
- From RCRA, the door opens to various other regulatory programs that interact or overlap including those of Department of Transportation (DOT), Occupational Health & Safety Administration (OSHA), National Fire Prevention Association (NFPA), others



STEP 2: KNOW & UNDERSTAND YOUR GENERATOR STATUS

HAZARDOUS WASTE GENERATOR

- Who is a hazardous waste generator?
  - Any person (or entity) by site who first creates or produces a hazardous waste (e.g., from an industrial process) identified in 40 CFR 261
- 3 categories of hazardous waste generators:
  - Large Quantity Generators (LQG)
  - Small Quantity Generators (SQG)
  - Very Small Quantity Generators (VSQG)
- FREQUENTLY FORGOTTEN:
  - Maintenance areas, spray cans (aerosols), lawn chemicals, expired product, excess inventory, QA/QC, research/development areas, electronics

"This is gobbledygook. I asked for mumbo-jumbo."

VERY SMALL QUANTITY GENERATORS (VSQG)

- Formerly called a “Conditionally Exempt Small Quantity Generator” – or CESQG
- Generation requirements:
  - Generate < 100 kg (~220 lbs) of hazardous waste per calendar month
  - Generate < 1kg (~2.2 lbs) of acutely hazardous waste per calendar month
- Accumulation requirements:
  - Accumulate < 1,000 kg (~2200 lbs) of hazardous waste
  - Accumulate < 1kg (~2.2 lbs) of acutely hazardous waste
- If a VSQG exceeds 1,000 kg, the VSQG becomes an SQG

SMALL QUANTITY GENERATORS (SQG)

- Generation requirements:
  - Generate between 100 & 1,000 kg/mo (220 & 2,200 lbs)
  - Generate < 1 kg (~2.2 lbs) of acutely hazardous waste per calendar month
- Accumulation requirements:
  - Accumulate less than 6,000 kg (13,230 lbs)
  - Accumulate waste for:
    - ≤ 180 days if off-site facility is < 200 miles
    - ≤ 270 days if off-site facility is ≥ 200 miles
- If an SQG exceeds 6,000 kg or 180 (270) days, it becomes an LQG
- **Beginning in 2021 & every 4 years thereafter, SQGs must renotify EPA by September 1 using Form 8700-12 or state-equivalent form**

LARGE QUANTITY GENERATORS (LQG)

- Generation requirements:
  - Generate more than 1,000 kg/mo (2,200 lbs)
  - Generate more than 1 kg/mo acutely HW
- Accumulation requirements:
  - No limit on quantity accumulated
  - Accumulate waste less than 90 days
- If an LQG exceeds the 90-day accumulation, it becomes a storage facility
- Highest regulatory burden – expect a long inspection

EPISODIC GENERATING EVENTS (40 CFR 262 SUBPART L)

- Applies to VSGQs & SQGs and allows them to maintain their existing hazardous waste generator category
  - One planned event per year
  - Ability to petition twice per year for an unplanned event
- There are notification, labeling, storage & recordkeeping requirements
- The **facility must get an EPA ID number** if they don't have one, use a manifest, & send the waste to a RCRA-designated facility
- Excellent option for excess inventory cleanouts or management of an unexpected emergency waste generation event
- **This is a RED FLAG & frequently people don't do this right** (missing timelines, failure to notify, etc).

STEP 3: PREPARE YOUR FACILITY

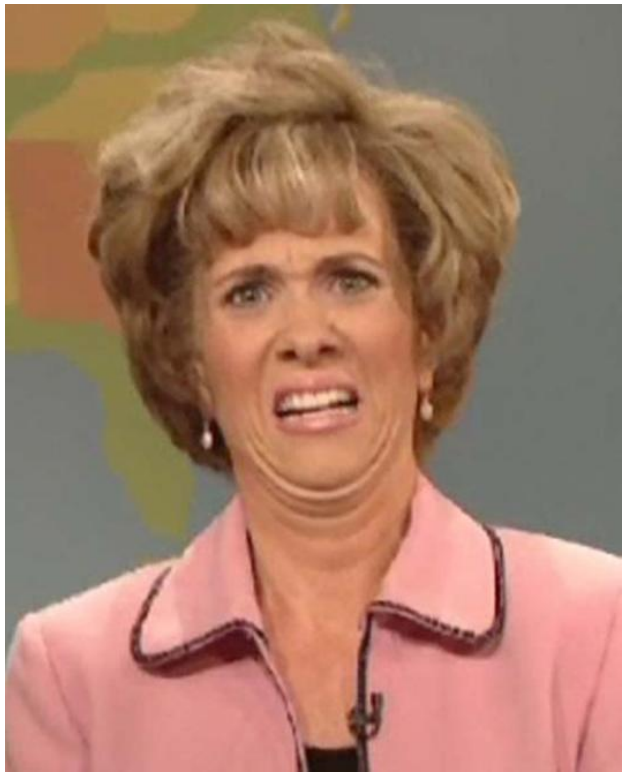
UNDERSTAND EPA'S TARGETED LOW-HANGING FRUIT

AREAS OF FOCUS DURING AN INSPECTION

- Documentation, recordkeeping & responsibilities
- Review of applicable plans
- Inspection of Satellite Accumulation Areas (SAA)
- Inspection of Central Accumulation Area (CAA)
- Inspection of universal waste collection
- Housekeeping & spill/drip/leak/ooze management
- Safety equipment & emergency response

EPA HAZARD CLASSES: HOW DO YOU KNOW?

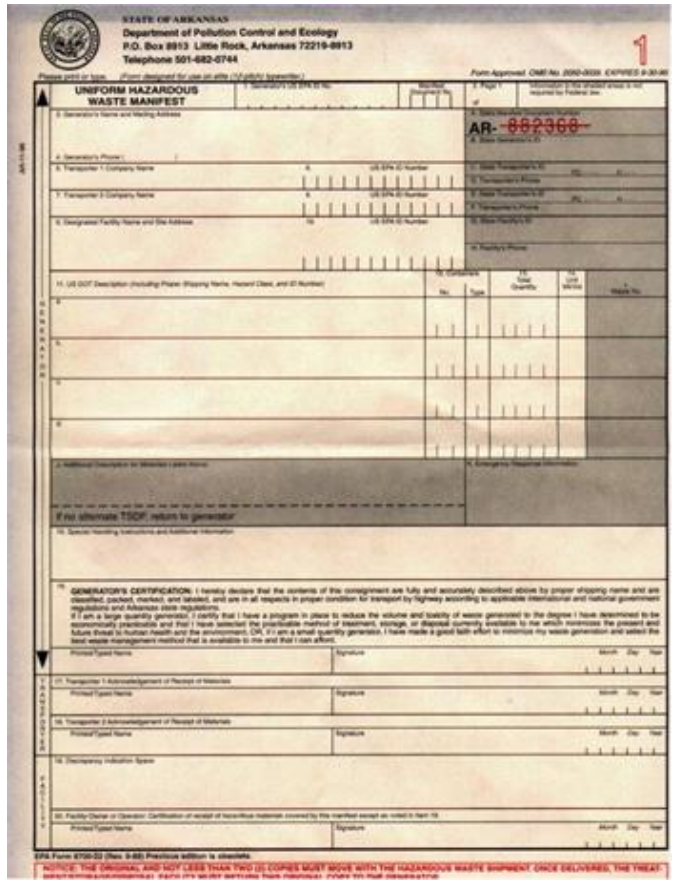
- Companies generating waste are required to evaluate all waste
- "**Failure to Make a Waste Determination**" is one of the most cited offenses – EVERY GENERATOR IS REQUIRED TO DO THIS!
- Is it hazardous? Universal? Recycled? Solid? Exempted?
- This is determined through generator knowledge or analytical testing
- **Waste determination documentation is required for LQG & SQG, but KTL strongly recommends VSQG also keep documentation**
- Once the type of waste is determined, the generator is responsible to determine proper waste disposal options
- The generator is also responsible for proper shipping, labeling & disposal documentation



DOCUMENTATION THAT EPA WILL REVIEW

Records include reports, inspections & training documentation, as well any support documentation & agency interactions:

- **Waste determinations**: SQGs/LQGs: Records must include results of any tests, generation processes, waste composition & properties, waste codes, waste profiles. Best practice for VSQG. 3 years.
- **Shipping paperwork**: Manifests, LDRs, & exception reporting are kept for 3 years.
- **Reports:** Tier II, TRI and support, biannual waste reports (LQG) are kept for 3 years. Water reports & air reports & records are typically maintained for 5 years.
- **Inspections:** Waste inspections are kept for 3 years. Inspections for SPCC are kept for 3 years. Air records & SWPPP inspections are typically kept for 5 years.


STATE OF ARKANSAS
Department of Pollution Control and Ecology
P.O. Box 8913 Little Rock, Arkansas 72219-8913
Telephone 501-682-0744

UNIFORM HAZARDOUS WASTE MANIFEST

AR- ~~882368~~

HOW DO YOU PREPARE DOCUMENTATION?

- Gather 3 years of manifest, BOL, waste profiles & receipts
- Organize manifests by date & shipment
- Match up all parts of manifest (first page, last page, LDR, other)
- Check them for proper EPA ID, address information, waste codes, emergency response numbers, proper shipping name, signatures, final destination codes
- Organize all receipts for universal waste & used oil
- Be prepared to make copies for EPA to take with them
- Best practice: Summarize waste shipments in a spreadsheet by month to demonstrate compliance with generator status limits or talk to KTL about using SharePoint systems

PLANS & PERMITS TO HAVE AVAILABLE

- **Emergency Plans -** All generator sizes are required to have an Emergency Action Plan (EAP) by OSHA. EPA requires SQG & LQG meet certain emergency preparedness requirements & develop contingency plans. This includes PSM/RMP planning.
- **Spill Prevention & Countermeasures Plan (SPCC) –** An SPCC is required for facilities that have more than 1,320 gallons of oil (this includes petroleum products & many coolants, etc.) in containers 55 gallons & larger. Containers include drums, tanks, equipment bays & facility-owned transformers.
- **Stormwater Permits or No Exposure Permits -** Facilities with certain SICs are required to determine if they require a stormwater permit & SWPPP. If these facilities do not expose stormwater to contaminants, they may apply for a no exposure certification.
- **Air Permits -** Facilities with certain industrial equipment or processes or emission levels may be required to obtain an air permit or a permit exemption.
- **Wastewater Treatment Permits -** Facilities that discharge industrial waste to the sanitary sewer may require a permit to discharge. These permits are typically issued locally & have monitoring & reporting requirements.

PLANS & PERMITS TO HAVE AVAILABLE

- **Bi-annual Hazardous Waste Reports (LQG) -** LQG are required to submit a bi-annual waste report to EPA. Many states have an annual requirement & include SQG & LQG.

- **Tier II Reports -** Tier II reports are submitted to emergency response agencies (SERC, LEPC & local fire departments). Facilities with 10,000 pounds of an OSHA chemical or an extremely hazardous substance above threshold onsite at any one time are required to submit Tier II reports annually.

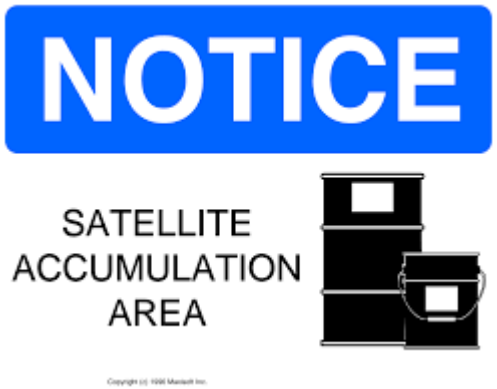
- **TRI Reports -** The Toxic Release Inventory (TRI or 313) is required for facilities that exceed thresholds for manufacturing or processing certain chemicals in a year. The Form R or Form A report is completed annually.

- **WW Reports -** Facilities that discharge industrial wastes to the sewer may be issued a permit. These permits typically have monitoring & reporting requirements.

- **Air Reports -** Facilities that are issued air permits will have monitoring & reporting requirements. The requirements will depend on the type of permit issued. Some states require annual reporting for facilities that emit but are below permit requirements.

SATELLITE & CONTAINER ACCUMULATION AREAS

- Satellite accumulation is where waste is collected within a facility typically at the end of a process. This is a waste collection site with very specific requirements for labeling & accumulation.
  - See 40 CFR 262.15 (for SQG/LQG)
- Container accumulation is where full containers of waste are stored prior to disposal. Generators must understand all labeling, inspection, packaging, waste compatibilities & hazard notification requirements.
  - See 40 CFR 262.16 (SQG) & 40 CFR 262.17 (LQG)
- Things people miss: dates on containers, closed containers, incompatible waste storage, lack of inspections, indications of hazards & the words “HAZARDOUS WASTE”, maximum storage timelines



INSPECTION OF UNIVERSAL WASTE CONTAINERS

- 5 types of waste are currently covered under the universal waste regulations:
  - Hazardous waste RECHARGABLE batteries (not alkaline)
  - Hazardous waste mercury-containing devices
  - Hazardous waste lamps (consider LEDs)
  - Hazardous waste pesticides (recalled)
  - *New!* aerosol cans
  - These are FEDERAL - some states may have additional definitions

- Containers must be dated, have closed lids, be in good condition & be recycled within one year
- Mark container “Universal Waste” & then the name of the item: batteries, lamps, mercury-containing equipment
- Understand the details: 40 CFR 273
- Best practice: have a written Universal Waste Plan that accompanies training

INSPECTION OF USED OIL COLLECTION

- Used oil is not regulated as a hazardous waste if it is recycled
- Used oil for disposal (not recycled) that meet characteristics is a hazardous waste
- Used oil mixed with listed hazardous waste is a hazardous waste
- Clearly label as “Used Oil” not waste oil
- Close the container when not in use
- Clean up all spills & exterior contamination
- It is a best practice to have an oil collection drum on a spill pallet
- Transporting used oil
  - If you use a transporter, they must have an EPA ID number
  - The oil recycler must test the oil for PCB (halogens)
  - You may self-transport used oil in a personal or company-owned vehicle in containers less than 55 gallons to a collection facility (e.g., HHW event or an Auto Zone)

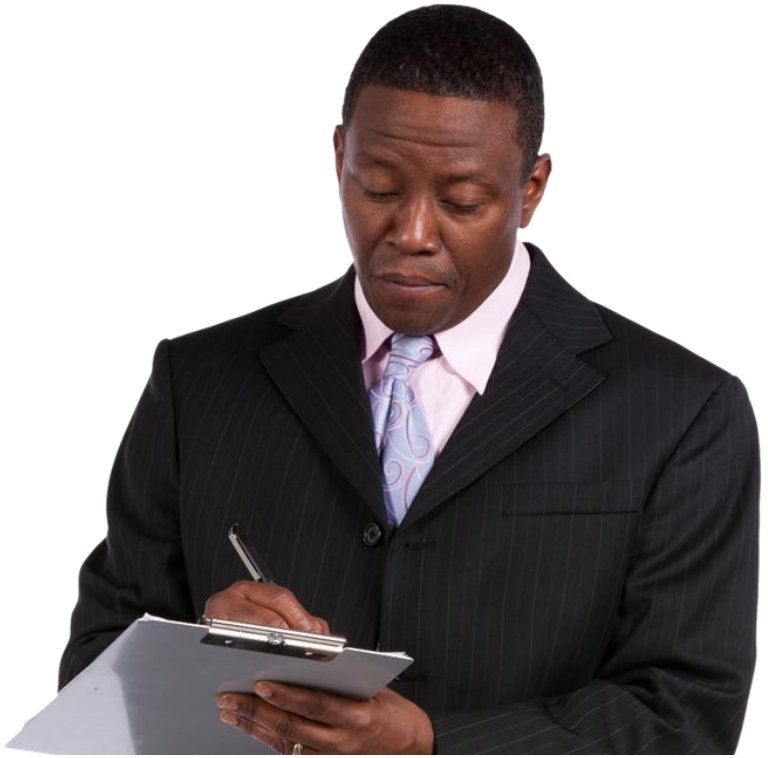
ATTENTION TO HOUSEKEEPING & SPILL RESIDUE

- Do you have any “inherently waste-like chemicals”?
- Clean up spills & residue – evaluate the waste!
- Assure all chemicals (even products) have lids on them & labels
- Clean up the residual discharge at all drains inside & eliminate all unpermitted discharges
- Good housekeeping = minimized inspection complications
- Have spill kits, label them, check them & include them on site maps

STEP 4: THE INSPECTION PROCESS

ACTIONS TO TAKE BEFORE & DURING INSPECTION

- Prepare a phone tree for plant alert when the inspector is onsite
- Have a sweep team identified ahead of time to fix non-compliance items that are detected prior to inspection
- Conduct mock interviews with team members that may be interviewed to validate training & understanding
- Prepare a kit ahead of inspection with a sharpie, extra labels, notepad, tape
- Always escort the inspector; consider a scribe to take notes
- Conduct a short safety meeting with the inspector & document it
- If the inspector identifies a deficiency, ask if you can correct it; take a photo before & after correction
- Ask the inspector what they would like to see; take them to those areas as directly as possible



CLOSING CONFERENCE & NOTIFICATIONS

- Inspector(s) may want time alone with materials & documentation – stay close by for any questions
- During the closing conference, the inspector will identify their findings & leave a Notice of Potential Findings & a list of materials they are taking
- If they have information incorrect, you can correct the information, but this is not the time to argue about findings!
- Once they leave….take a breather!
- The inspector will write their report in 30-60 days identifying their findings; you will receive a copy when it is submitted to EPA for evaluation
- EPA will take 30-60 days to review findings & may ask for additional information during this time; your response to their request for information is critical – ask for help if you need it!

AFTER THE CLOSING CONFERENCE CONCLUDES

- If you suspect that the inspector is going to identify deviations from code, you have a window to repair them!
- As the inspector writes the report, work with your team to make any improvements to plans, complete training, or work to resolve concerns
- If you complete this prior to receiving the inspector's report, you may reach out & provide the information to the inspector
- Do not falsify dates of completion or updates to plans – this is a criminal offense! **Be honest.**
- Wording & information provided during this time MUST be accurate
- **KTL can advise you during this time to ensure you do not self-incriminate**

STEP 6: SUMMARY REVIEW

5 KEY THINGS TO DO RIGHT NOW

- Get your waste documentation in order
- Review all your EPA plans to make sure they meet requirements
- Establish your sweep team & conduct a mock inspection
- Inspect all containers of hazardous & universal waste, used oil, solvent contaminated rags, & exempted waste for proper labeling, marks, container integrity, proper DOT shipping names, waste dates & closed lids.
- Call KTL for guidance & questions if you determine you have failed to file a report, have exceeded your generator status by quantity of waste generated, or have failed to ship waste during the allowed time

THANK YOU FOR YOUR TIME

- We would be happy to assist your company in navigating the challenging compliance environment.
- KTL offers robust auditing, training & compliance assistance programs for all types of industries.
- We also provide strategic documentation management support & SharePoint application development for both EHS & Food Safety programs.
- Please reach out if we can help you prepare. Contact information is on the next slide.
- We look forward to assisting you!

Kestrel Tellevate LLC
ELEVATE YOUR BUSINESS

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