The Inspector at Your Door!
Are you ready?

December 11, 2019 – 2:00pm est

The audio portion of the webinar will be broadcast through your computer speakers. There may be times of prolonged silence before the webinar begins.
The Inspector at Your Door!
Are you ready?

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Presenters

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Today

• EPA – Compliance & Enforcement Process
• Political Climate – Inspections / Enforcement
• National Compliance Initiatives
• Types of Inspections
• Anatomy of an Inspection
  o Ubiquitous Questions
  o Best Practices
  o Do’s and Don’ts
EPA Compliance & Enforcement process

1. EPA / OSHA Problem Identified
2. Congress passes law
3. EPA proposes regulations that monitor compliance
4. Compliance Monitoring
5. Compliance Assistance
6. Enforcement Action
EPA Enforcement Goals 2020

**Tough civil and criminal enforcement** for violations that threaten communities and the environment.

- Clean water: cut raw sewage, animal waste, and polluted stormwater runoff; protect drinking water
- Clean air: reduce pollution from largest sources, cut toxic air pollution
- Clean energy and climate: focus on energy sector; assure GHG rule compliance
EPA Enforcement Goals 2020

**Tough civil and criminal enforcement** for violations that threaten communities and the environment.

- Clean communities: protect people from exposure to hazardous chemicals and require polluters to pay for cleanup of contaminated sites
- Pursue criminal violations that threaten human health and the environment or that undermine the integrity of environmental protection programs
- Advance environmental justice in underserved communities
Types of Enforcement Results

Civil Enforcement

Settlements are generally agreed-upon resolutions to an enforcement case.

Civil Penalties are monetary assessments paid by a person or regulated entity due to a violation or noncompliance.

Injunctive Relief

Supplemental Environmental Projects (SEPs) and Mitigation can be part of an enforcement settlement. SEPs are environmental improvement projects that a violator voluntarily agrees to perform.
Fiscal Year 2018
EPA Enforcement and Compliance
Annual Results

Prepared by the Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency

February 8, 2019
Federal Inspections and Evaluations (Conducted by EPA)
FY 2008 – FY 2018

ILMA
Independent Lubricant Manufacturers Association
Criminal Enforcement

Value of Fines and Restitution and Court Ordered Environmental Projects
FY 2008 – FY 2018

In FY 2018, the total of criminal fines, restitution, and court ordered projects was $888 million.

Annual totals vary widely due to large cases such as BP in 2013, Duke Energy in 2015, and Volkswagen in 2017.

1. All prior FY dollar figures in the graph are adjusted to reflect the current value in FY 2018 dollars based on the monthly rate of inflation/deflation as determined by the U.S. Department of Labor Consumer Price Index for All Urban Consumers.
2. Dollar figures referenced in the bullets are nominal values. They are not adjusted to reflect inflation/deflation.

Data Source: Criminal Case Reporting System
U.S. Environmental Protection Agency
Criminal Cases

For the first time since FY 2011 the number of environmental crime cases opened increased
The number of federal Environmental Protection Agency inspections since 2016 — the year Donald Trump was elected president — plummeted by more than 60% in the six-state region overseen by the agency’s Chicago office, while inspections dropped about 30% throughout the rest of the nation. It shows the Midwest office, once among the most aggressive in the nation, has been hit hard under Trump.

Source: American Federation of Government Employees, Local 704 • Data retrieved October 28, 2019 — Jared Rutecki/BGA
# OSHA Inspection History

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*As of FY 2015 referral inspections encompass all subtypes of referrals such as those received from compliance safety and health officers, safety and health agencies, other city/county/state/federal governments, media, and employer-reported.

** The October 2013 Government shutdown occurred during this time.
Occupational Safety and Health Administration (OSHA) Enforcement

The Occupational Safety and Health Administration (OSHA) is authorized by the Occupational Safety Health Act of 1970 (OSH Act) to assure employers provide safe and healthful conditions for working men and women free of recognized hazards by setting and enforcing standards and providing training, outreach, education, and technical assistance. To assure safe and healthful working conditions, the OSH Act authorizes OSHA to establish and enforce standards; provide outreach, compliance assistance, and training; and establish cooperative programs to partner and work collaboratively with employers, employees, and other stakeholders. These intervention strategies are designed to deter, assist, and collaborate with employers and employees to reduce workplace injuries, illnesses, and fatalities.

OSHA INSPECTION ACTIVITY

In FY 2018, OSHA conducted 32,023 inspections, including 18,067 (about 56 percent) unprogrammed inspections, which includes employee complaints, injuries/fatalities, and referrals. The high percentage of unprogrammed inspections indicates that OSHA continues to devote considerable resources responding to referrals and complaints. Of the 32,023 inspections, 13,956 (about 44 percent) were programmed inspections. Programmed inspections focus OSHA’s enforcement resources towards the industries and operations where known hazards exist (e.g., combustible dusts, chemical processing, ship-breaking, and falls in construction).

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Federal OSHA Violations Cited
1910.1200 – FY 2018

% HCS Violations

- Serious: 64.5%
- Willful: 0.2%
- Repeat: 2.3%
- OTS: 32.4%

Total initial penalties over $7.6 million
Today

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- Political Climate - Inspections / Enforcement
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- Types of Inspections
- Anatomy of an Inspection
  - Ubiquitous Questions
  - Best Practices
  - Do’s and Don’ts

ILMA
Independent Lubricant Manufacturers Association
Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants from Stationary Sources (modified from prior cycle)

OECA
Reducing Hazardous Air Emissions from Hazardous Waste Facilities (continued from prior cycle) This NCI is being selected to continue in the next cycle. The Agency has found that air emission violations associated with the improper management of hazardous waste remains widespread.
National Compliance Initiatives 2020-2023

Stopping Aftermarket Defeat Devices for Vehicles and Engines

Stopping Aftermarket Defeat Devices for Vehicles and Engines (new) OECA is selecting Stopping Aftermarket Defeat Devices for Vehicles and Engines as a new NCI for the next cycle. In the NCI Federal Register notice, we invited the public to propose areas for consideration.
Reducing Significant Noncompliance with NPDES

Reducing Significant Noncompliance with National Pollutant Discharge Elimination System Permits (modified from prior cycle) OECA is selecting Reducing Significant Noncompliance with National Pollutant Discharge Elimination System (NPDES) Permits as an NCI that incorporates the existing Industrial Pollutants NCI.
OECA is selecting Reducing Noncompliance with Drinking Water Standards at Community Water Systems as a new NCI for the next cycle. In the NCI Federal Register notice, we sought input on selecting an NCI to increase compliance with drinking water standards. Numerous commenters supported this concept with varying suggestions on the scope of the effort.
OECA is selecting Reducing Risks of Accidental Releases at Industrial and Chemical Facilities as an NCI to continue in the next cycle. This NCI was introduced in the last cycle.
Anatomy of an Inspection

EPA outline for inspectors

• Opening Conference
• Present credentials
• Request access to the facility to perform the inspection
Anatomy of an Inspection

EPA outline for inspectors

• Explain statutory / regulatory purpose of the inspection
• If required, have facility sign notice of inspection
• Discuss areas of the facility to be inspected
Anatomy of an Inspection

EPA outline for inspectors

• Records needed for review, if known;
• Explain right to make a claim of confidential business information (CBI);¹
• Approximate duration of inspection;
Anatomy of an Inspection

EPA outline for inspectors

• Health and safety, personal protective equipment (PPE), including ensuring ventilation is turned on in any areas to be inspected that contain hazardous chemicals

• Equipment that will be used during the inspection (camera, IR camera, etc.)
Anatomy of an Inspection
EPA outline for inspectors

• Right for employees and their representatives to participate in CAA 112(r) inspections, where applicable

• Need for, and the purpose of a closing conference
Anatomy of an Inspection

EPA outline for inspectors

• Potential for opportunity for the facility to “fix” potential deficiencies or areas of concern either during or shortly after the inspection (but no assurances should be provided by the inspector that such a “fix” will ensure that the Agency will not bring an enforcement action)
Types of OSHA Inspections

Referrals of hazards from other federal, state or local agencies, individuals, organizations or the media receive consideration for inspection.
Types of OSHA Inspections

Imminent danger situations—hazards that could cause death or serious physical harm receive top priority. Compliance officers will ask employers to correct these hazards immediately or remove endangered employees.
Types of OSHA Inspections

Severe injuries and illnesses - employers must report: All work-related fatalities within 8 hours. work-related inpatient hospitalizations, amputations, or losses of an eye within 24 hours.
Types of OSHA Inspections

Worker Complaints—allegations of hazards or violations also receive a high priority. Employees may request anonymity when they file complaints.
Types of OSHA Inspections

Targeted inspections—inspections aimed at specific high-hazard industries or individual workplaces that have experienced high rates of injuries and illnesses also receive priority.
Types of OSHA Inspections

Follow-up inspections—checks for abatement of violations cited during previous inspections are also conducted by the agency in certain circumstances.
Top Ten Violations - 2018

OSHA's 2018 Top 10 Most Frequently Cited Violations

Hazard Communication - #2
Use EPA's Enforcement and Compliance History Online website to search for facilities in your community to assess their compliance with environmental regulations. You can use ECHO to:

- Search for Facilities
DIRECTIVE NUMBER: CPL 02-02-079   EFFECTIVE DATE: July 9, 2015

ABSTRACT

Purpose: This Instruction establishes policies and procedures to ensure uniform enforcement of the Hazard Communication standard (HCS).

Scope: This Instruction applies OSHA-wide.

References:


OSHA Instruction, CPL-02-00-150, Field Operations Manual (FOM), April 22, 2011.
SPCC Guidance for Regional Inspectors

In August 2013, EPA revised the SPCC Guidance for Regional Inspectors. This guidance is intended to assist regional inspectors in reviewing a facility's implementation of the Spill Prevention, Control, and Countermeasure (SPCC) rule at 40 CFR part 112 (PDF) (117 pp, 4.3 MB, About PDF). This document is also available to owners and operators of facilities that may be subject to the requirements of the SPCC rule and the general public. The document is designed to provide a consistent national policy on several SPCC-related issues.

This guidance is a living document and will be revised, as necessary, to reflect any relevant regulatory amendments. Additionally, EPA welcomes comments from the regulated community and the public on the guidance.

- Webinars on the revisions to the SPCC Guidance for Regional Inspectors
- How do I comment on the Spill Prevention, Control, and Countermeasure (SPCC) Guidance for Regional Inspectors?
- Disclaimer
- Guidance Content

How do I comment on the Spill Prevention, Control, and Countermeasure (SPCC) Guidance for Regional Inspectors?

ILMA on the SPCC Guidance for Regional Inspectors, e-mail us at SPCC.OilSpill@epa.gov. In your message, please include the
Wrap Up

What did we learn?

• Be prepared
• Train
• Know your rights
• Know your resources

• Know your compliance status
From the offices of ILMA we wish you a wonderful Holiday Season.
Q & A
Don’t be shy!

Please check the ILMA community page for resource documents

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317.918.0841
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