

Tips For Handling Environmental Agency Inspections

In light of the recent uptick in environmental compliance inspections at Connecticut marina facilities by the DEEP and the U.S. Coast Guard, we thought we would provide some common tips for you to consider in case an agency inspector shows up on your doorstep. Please note this is not legal advice and if you have particular concerns you should consult your attorney or environmental professional for site specific guidance.

1. **A Good Offense Is A Strong Defense: Be Prepared**

- Designate one individual who will be the primary contact and responsible for handling environmental inspections (he/she will act as the “tour guide” during an inspection)
- Properly organize pertinent records - records that are not normally subject to inspection (e.g., environmental audit reports, internal memoranda, privileged communications) should be physically separated from environmental compliance documents and maintained in a different file
- For the most part, environmental laws give government officials broad powers to carry out inspections. Inspectors can take samples, install measuring equipment, carry out analyses, consult company records and examine your property to verify compliance. Also, if your facility has an environmental permit or approval of some type, the approval typically comes with a condition that grants the regulatory agency the right to inspect your operation. Not only can officials conduct inspections without warrants in the majority of cases but you are also required to cooperate with - or at least refrain from obstructing - them while they do their work

2. **First Steps When The Inspector Arrives**

- Ask the inspector for identification and purpose of visit and notify the designated individual immediately (in the meantime, escort the inspectors to a waiting area if available)
- Request an opening conference:
 - o Is this an “inspection” or an “investigation”?
 - o What is the scope of the inspection will be done (air? Stormwater? Waste management?) If the inspector states it is a criminal investigation, legal counsel should be contacted immediately (this is very rare)
- Set out a procedure to follow for responding to inspector’s requests for documents or follow up questions (any requests for documents should be documented)
- Arrange to receive copies of any photographs taken by the inspector or take identical photographs at the same time
- Determine whether any compliance sampling will be done. If so, tell the inspector that the company intends to duplicate all measurements and sampling

3. **During The Inspection (Records Review And/Or Site Walk)**

- Cooperation goes a long way. Answer specific questions but you do not need to volunteer information not asked for
- Accompany the inspector during the entire visit
- Take notes of questions asked by the inspector and the locations observed and/or photographs
- Do your best to avoid allowing the inspector speaking with lots of employees and staff
- Make photocopies of everything the official takes, including any written statements by workers
- Take your own samples and submit them to an independent laboratory for analysis or ask the inspector for a duplicate or split sample of everything he takes; and
- Take duplicate photographs of any taken by the inspector.

4. **End of the Inspection**

Request an Exit Interview at the conclusion of the inspection before the inspector leaves to see if he/she will discuss their preliminary findings and thoughts or what are the next steps