

INSPECTIONS

PROCEDURES FOR RESPONDING TO ENVIRONMENTAL INSPECTIONS

I. Establish Procedures for Dealing with Inspectors

- A. Choose a personable supervisor as inspection coordinator.
- B. Establish a procedure to be implemented when the inspector arrives at your plant.
- C. Determine under what authority the inspection is being conducted (Statute, Warrant or Consensual).
 - 1. Statute - Do not consent to admission. However, acknowledge that if relying on inspector's representation of authority under the Statute which authorizes inspector's admission to your plant without a warrant and you will allow inspector to enter only because inspector represents to you that to deny him access will constitute a crime.
 - 2. Warrant - No consent necessary, do no consent. Entrance gained via inspection warrant.
 - 3. Consensual - All search issues may be resolved.
- D. Control access to paper work.
 - 1. Utilize Attorney-Client Privilege for confidential documents.

2. Provide a separate location for documents required by permits for access by inspection coordinator.
 - a. Label such documents confidential and control access.
 - b. Utilize attorney's office.
- E. Control employee contact with inspectors.
1. Accompany inspector at all times on plant premises; do not give him unfettered access. Always verify identification.
 - a. Insist on arrival conference.
 - (1) Determine why inspector is there.
 - (2) Determine what exactly inspector would like to see.
 - (a) Plant.
 - (b) Documents.
 - b. Provide transportation for inspection.
 - c. Once inspection begins, limit the areas inspected to those dealing with the inspector's authority.

- (2) Quiet area away from inspection site.

II. Inspection

- A. Limit areas to be inspected by planning inspection in the opening conference.
1. Obtain blank inspection forms if the inspector uses them; or if it is available, take one.
 2. Keep track of areas inspected, times, and order of inspection.
- B. Control physical evidence gathering.
1. Samples taken by inspector.
 - a. Note method of sampling used by inspector.
 - b. Note whether inspector used a clean sampling device for each sample.
 - c. Note manner in which sample was stored.
 - d. Insist on sample split from inspector's sample, and make sure sample is preserved.
 - e. Keep detailed notes of all conversations, comments, or statements made by inspector.
 2. Photographs taken by inspector.

- a. Verify authorization to take photograph during inspection.
(Cal; H&S Code §5 permits limited photographs).
 - b. Insist on a copy of all photographs taken by the inspector.
 - c. Ask inspector how many photographs have been taken.
3. After inspection has been completed:
- a. Closing Conference.
 - (1) Take notes.
 - (2) Identify problems; debriefing.
 - (3) If there is a disagreement as to a specific condition, verify the inspector's observations.
 - b. Ask the inspector for a copy of inspection report.
 - (1) If the inspector will forward a report to you, ask for a copy of inspection notes.
 - c. Escort the inspector off premises. Take inspector's "Visitor" badge.

III. Inspection Warrants

- A. Administrative Warrants. Read the warrant. Ask questions.

1. Administrative warrants are not as broad as search warrants.
 2. Call your attorney immediately.
 3. When the inspector arrives with the warrant, ask for an opening conference.
 - a. Determine why the inspector is there with a warrant.
 - b. Take copious notes.
 - c. Go over your safety rules with the inspector.
 - (1) As a matter of safety, instruct the inspector to address all questions to the inspection coordinator only. Instruct the inspector not to speak with employees during the working shift.
 4. Ask the inspector to wait for your attorney if counsel is on the way.
 - a. Do not interfere with the inspector.
- B. During the administrative search.
1. There is no need to cooperate, however try to control access.
 2. Provide transportation for the inspection.
 3. Be a recorder - take notes.

4. Limit access to employees; advise employees to not answer any questions is the inspector should ask.
 5. Accompany the inspector on the search.
 6. Sample rules and inspection re. samples.
- C. Insist on post-administrative search conference.
1. See inspections.

IV. The Search Warrant

- A. This is a criminal investigation - contact your attorney and have counsel present during the search.
- B. Read the warrant.
- C. Send all employees home immediately.
- D. Do not speak to anyone and instruct the inspector that you and everyone at the plant are represented by counsel. Give the inspector the name of your counsel, and invoke your rights to remain silent.
- E. You are under no obligation to cooperate or to locate documents. Allow the inspector to search.
- F. Advise your employees of counsel's representation, and tell them there is no need to speak to the inspector.
- G. Do not interfere.