COMPLIANCE AND ENFORCEMENT

Kansas Department of Health and Environment
Bureau of Waste Management
COMPLIANCE vs ENFORCEMENT

• Compliance is voluntarily following the regulations.

• Enforcement becomes necessary if someone doesn’t comply with the regulations.
COMPLIANCE

• RCRA puts all responsibility for compliance on the generator. Ignorance of the regulations is not a legitimate defense.

• There are about 6,000 generators of hazardous waste in Kansas.

• KDHE and EPA conduct about 300 hazardous waste compliance inspections each year in Kansas (about 5 percent of generators).
HOW ARE YOU CHOSEN?

• Candidate List

• Complaint

• Facility-Type Initiative
INSPECTION PROCEDURES

• Entry – Ask for environmental contact (person listed on notification form).
• Present ID – State the purpose of the inspection.
• Outline the process – Preliminary discussion, walk-through inspection, records review, and exit briefing.
• Estimate the amount of time of inspection.
PRELIMINARY DISCUSSION

• Obtain basic information (name of facility, address, phone and fax numbers, number of employees, contact person, etc.).
• Are there any trade secrets or confidentiality issues?
• What kind of manufacturing? What is produced?
PRELIMINARY DISCUSSION

• What are the processes?
• What solid and hazardous wastes are generated?
• How much of each waste is generated per month?
• How is each waste disposed?
• Are there any safety issues before beginning facility tour?
PHYSICAL INSPECTION (WALK-THROUGH)

- Will view entire facility (including perimeter).
- Focus on points of waste generation and storage.
- Bring your keys (we need to see every closet and attic).
- We will take photographs.
- We will make comments and suggestions and identify problem areas during the walk-through.
RECORDS REVIEW

• Inspection Logs (3 years)
• Hazardous Waste Manifests (3 years)
• Land Disposal Restrictions (3 years)
• Waste Determination Documentation – analytical reports, MSDSs, etc.
• Special Waste Disposal Authorizations
• Training Records
RECORDS REVIEW

LQGs

• Additional documents for LQGs
  – Annual/biennial Reports
  – Training Documentation
  – Job Titles
  – Job Descriptions
  – Contingency Plan
Most inspectors will take a break and either leave or ask for some time alone to organize their notes and thoughts before the exit briefing.
EXIT BRIEFING

- Inspector may ask additional questions to clarify or confirm information.
- Inspector will explain your generator status.
- Inspector will explain all violations and comments/concerns identified during the inspection.
- Inspector will explain corrective actions that are needed.
- Inspector may cite a violation even though corrective actions were implemented during the inspection.
EXIT BRIEFING

- Inspector will establish deadlines for compliance (correcting violations and addressing concerns).
- Inspector will leave a written Notice of Compliance/Non-compliance form or send a letter explaining each of the violations and comments.
- Inspector will answer all of your questions or will write them down to get you answers later.
INSPECTIONS - AUTHORITY
K.A.R. 28-31-12

• To gain entry at any reasonable time of day
• To collect samples
• To analyze any sample collected to determine if waste is hazardous
• To stop and inspect any vehicle transporting hazardous waste
• To photograph any hazardous waste facility, structure, or equipment
INSPECTIONS - AUTHORITY
K.A.R. 28-31-12

• To inspect and copy records or other information
• To drill test wells or groundwater monitoring wells
• To direct the operator to make changes if unsafe conditions or procedures are noted during the inspection
• To be treated fairly and with respect
INSPECTIONS - YOUR RIGHTS

- To have the inspector observe all reasonable security, safety, and sanitation measures
- To collect duplicate samples of any sample collected by the inspector
- To receive a written list of violations and comments noted during the inspection
- To designate information given to the inspector as a trade secret or confidential  
  (Will have to follow-up with our attorney)
- To be treated fairly and with respect
INSPECTIONS

• How to expedite an inspection:
  – Take your keys with you on the walk-through
  – Have someone pull necessary records while you and the inspector tour the facility
  – Be familiar with your waste streams and your facility, know who is familiar with each process in case the inspector has questions
  – If management need to be in the exit briefing, get an estimated time from the inspector so everyone is prepared.
ENFORCEMENT

- Inspectors work with facilities to achieve compliance (correct violations).
- Enforcement reviews and recommendations are made in Topeka (central office).
- Enforcement is an administrative action.
- Enforcement may include penalties and/or corrective actions.
ENFORCEMENT

• About 20 hazardous waste enforcement cases are initiated each year or about 6 percent of the inspections that are conducted.
• Penalties average between $5,000 and $50,000, but can be higher or lower.
• EPA can also take enforcement actions.
• EPA and county attorneys can also take criminal actions if warranted.
ENFORCEMENT

• Some violations will always trigger an enforcement review (but not necessarily a penalty):
  – Any violation of unlawful acts, including disposal, treatment, storage, etc. (K.S.A. 65-3441)
  – Failure to minimize the threat of a release of hazardous waste or hazardous constituents to the environment.
  – Violations repeated from previous inspections
  – Excessive numbers of violations
ENFORCEMENT

- Treatment includes solidifying and/or drying wastes.
ENFORCEMENT

• Unlawful disposal of HW includes throwing rags contaminated with F-listed solvents in the trash.
  – If F003 listed solvents, can test rags to see if they comply with LDR limits.
COMPLIANCE RESOURCES

• KDHE wants to help all generators achieve compliance. Please call us with any questions. (We don’t have caller ID)

• Small Business Environmental Assistance Program (SBEAP) operated by the Pollution Prevention Institute (PPI) at KSU 1-800-578-8898 (Free anonymous assistance)