

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



BREAK!!!

- 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)