



Preparing for an Agency Inspection of Your MS4 Program

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Why is There a Regulatory Focus on MS4 Programs?

- EPA routinely establishes “National Enforcement Initiatives.”
- One of EPA’s current National Enforcement Initiatives is focused on stormwater discharges from municipal sewer systems.

Regulatory Authority

- Section 308 of the Clean Water Act grants EPA broad authority to inspect facilities subject to the Clean Water Act.
- EPA has the authority to request and review records, collect samples, interview employees, inspect facilities, etc.

Preparing for the Inspection

- Designate a team of individuals who will work with the inspectors and identify a team leader who will be the primary point of contact with the inspectors.
- Organize pertinent records and segregate sensitive records (e.g., environmental audit reports, attorney-client privileges memos, etc.).

Working with the Inspectors

- Determine what kind of inspection it will be, how long it will last, and define the scope of the inspection. If it's a criminal investigation, contact legal counsel immediately.
- Determine how many inspectors will be in the facility and ensure that each inspector is accompanied by a facility representative.

Explain the Facility's Document Production System

- Log the request.
- Screen the documents for applicable privileges and confidentiality claims.
- Facility should track exactly what documents were provided to the inspectors.

Working with the Inspectors

- Arrange to receive copies of any photos taken by the inspector.
- Consider duplicating any samples taken by the inspectors.
- Take detailed notes regarding what the inspectors saw and what employees were interviewed.
- Ask for a closing conference before the inspectors leave the facility.

A Possible Oregon MS4 Inspection Scenario

- Inspection conducted by EPA's National Enforcement Investigation Center (NEIC) from Denver accompanied by representatives from EPA Region 10 and the Oregon DEQ.
- Expect a call from the NEIC that an inspection will occur within 30 days.
- You then may receive a letter from the NEIC informing you when the inspection will begin.

A Possible Oregon MS4 Inspection Scenario

- You may receive prior to the inspection a 4-page records/document request from the NEIC asking for documents relating to all aspects of your stormwater program with a particular emphasis on:
 - Illicit discharge/improper disposal detection and elimination.
 - Industrial and commercial facilities.
 - Construction site runoff control.
 - Structural storm water controls operation and maintenance activities.

Possible Oregon MS4 Inspection Scenario

- You also may receive a 5-page questionnaire that you will be required to respond to in writing. The questions will relate to:
 - Program organization and structure.
 - Public education and outreach/public involvement and participation.
 - Construction site storm water runoff.
 - Post-construction storm water management.
 - Structural storm water controls operations and maintenance.
 - Pollution prevention and good housekeeping.
 - Monitoring, reporting and recordkeeping.

Possible Oregon MS4 Inspection Scenario

- A 5-day inspection
 - 2 days in the office reviewing documents, etc.
 - 2 days in the field.
 - 1 day for follow-up discussions and the closing conference.
- 4 NEIC inspectors, 1 EPA Region 10 representative and 1 from Oregon DEQ.
- After the inspection, follow-up questions and requests for information.

How to Prepare for the Inspection

- Focus on preparing a strong presentation about your stormwater program for the opening day of the inspection.
- Know your permit and be prepared to defend your compliance with the requirements of the permit.
- Be prepared to spend a lot of time properly responding to document requests and any inspection questionnaires.
- Be flexible.

Possible NEIC Actions

- Final inspection report.
 - Areas of noncompliance.
 - Areas of concern.
- The facility should address the issues identified in the inspection report.
- Enforcement?