

On-Site Civil Inspection Procedures: U.S. Environmental Protection Agency Final Rule



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The United States Environmental Protection Agency (“EPA”) issued a final rule on March 2nd that is intended to provide direction to its personnel on how to conduct on-site civil administrative inspections. See 84 Fed. Reg. 12224.

The final rule cites Section 7 of White House Executive Order 13892 which is entitled:

Ensuring Reasonable Administrative Inspections

The Executive Order states:

Within 120 days of the date of this order, each agency that conducts civil administrative inspections shall publish a rule of agency procedure governing such inspections, if such a rule does not already exist. Once published, an agency must conduct inspections of regulated parties in compliance with the rule.

EPA’s rulemaking addresses the common elements applicable to on-site civil inspections for compliance with all environmental laws that EPA implements.

Statutory authority cited for this procedural rule includes language from the following:

- Clean Air Act
- Clean Water Act
- Superfund
- Federal Insecticide, Fungicide and Rodenticide Act
- Resource Conservation and Recovery Act
- Safe Drinking Water Act
- Toxic Substances Control Act

The rule addresses issues such as:

- Timing of inspections and facility notification
- Inspector qualifications
- Obtaining consent to enter
- Opening conference
- Physical inspection
- Managing confidential business information
- Interview facility personnel
- Records review
- Sampling

- Closing conference
- Inspection report

Arkansas has been delegated almost every federal environmental statutory and regulatory provision. As a result, the vast majority of environmental inspections in Arkansas are conducted by Arkansas Department of Energy and Environment personnel. Nevertheless, EPA does have oversight authority and on occasion will inspect facilities in a designated state.

A copy of the final rule can be downloaded [here](#).