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# Managing Air Inspections in the Age of Information



A PRACTICAL GUIDE – Kristen Ellis Johnson

# Air Inspections

- What We Know
- What to Expect
- How to Prepare
- Best Practices
- Collateral Effects



## WHAT WE KNOW

- Broad authority to audit and inspect
  - CAA 112r (RMP) and 113 (Federal Enforcement)
  - 114 Information Requests
  - RSMo 643.060 (4) – Director to enforce, investigate complaints, issue orders, and take all actions necessary to implement
- EPA National Enforcement Priorities focused on air
- Increased Information Available
- Expect more unannounced, targeted inspections

# MDNR Responsive

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Investigated 80% of concerns  
reported (annual average)

# EPA's National Enforcement Compliance Initiatives (NECI)

## 2020-2023

- **Air**
- [Creating Cleaner Air for Communities by Reducing Excess Emissions of Harmful Pollutants](#)
- [Stopping Aftermarket Defeat Devices for Vehicles and Engines](#)
- **Hazardous Chemicals**
- [Reducing Hazardous Air Emissions from Hazardous Waste Facilities](#)
- [Reducing Risks of Accidental Releases at Industrial and Chemical Facilities](#)
- **Water**
- [Reducing Significant Non-Compliance with National Pollutant Discharge Elimination System](#)
- [Reducing Non-Compliance with Drinking Water Standards at Community Water Systems](#)

## 2024-2027

- Reducing Air Toxics in Overburdened Communities (modified)
- Mitigating Climate Change (new)
- Addressing Exposure to PFAS (new)
- Chemical Accident Risk Reduction (continued)
- Protecting Communities from Coal Ash Contamination (new)
- Increasing Compliance with Drinking Water Standards (continued)

# **EPA Policy: Federal Enforcement**

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Imminent & Substantial Danger

Nationwide Initiatives (EJ & NECI)

# EPA Funding Air & Enviro Justice

- FY 2023 Budget Justification
  - \$100 million - community air quality monitoring
  - \$299.4 million – air regulations (NAAQS)
  - \$12.7 million - wildfire prevention
  - \$294.938 million – Environmental Justice
    - \$11.8 million (FY22); \$10.3 million (FY21)
  - \$69.5 million –Criminal (291 FTE)
    - \$8 million (32 FTE) in 2022

# WHAT TO EXPECT: Increased Transparency

- Missouri CBI regulation updated 2022
- MDNR now publishing air applications online
- Release of Inspection Reports
- Air Quality Index Data
- Proposed AERR Rule
  - Require direct reporting to EPA
  - Criteria Pollutant and HAP
  - Does away with CBI



## WHAT TO EXPECT: Monitoring Technology

*NextGen* has arrived

- Ambient monitoring system
- Fence line monitoring
- Mobile monitoring
- Personal monitors



# How to Prepare

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Identify compliance gaps

Ongoing Training

# Know Your Status

- Value of conducting audits
- Consider impact of regulatory changes
- Recordkeeping
- Emergency Management Systems

# Ongoing Training

- Great Resignation has “ended” but impacts still evident
- Boomers retiring (all 65 by 2030)
- Institutional Knowledge

# Mirror Inspector Training

- Thorough understanding of sector-specific guidance
- Familiar with applicable industry standard (OSHA, NFPA, ANSI)
- Knowledgeable regarding plant operations and processes
- Sufficient history regarding any releases, emergency response/mitigation

# Best Practices: Inspection Day

- Accompany inspectors
- Take your own notes, duplicate sampling
- Balance of access and safety
- Responding to requests
- Access to Records
- Notice of Potential Findings – Confidential Information

# Expect Transparency

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Protecting Confidential Business  
Information

# Confidential Business Information

## 40 CFR 2.208

- Exemption 4 – Freedom of Information Act
  - Trade Secrets or
  - Commercial or Financial and obtained from a person and privileged or confidential

## 10 CSR 10-6.021

- 2022 Revised to mimic federal
  - Reasonable measures to protect
  - Not obtainable
  - No statute requires disclosure



# Emissions Data is not CBI...what is?

- Process information
- Equipment design, innovative technology
- Manufacturing methods and capacity
- Financial information - Profit/Loss data
- Marketing Strategy

# Collateral Effects

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Consider the whole picture of  
violations

## **2023 Penalties – Clean Air Act**

- \$55,808 per day per violation (administrative)
- DOJ referral - penalties exceed \$446,456
- \$117,468 per day per violation (judicial)
  
- Missouri - \$10,000 per day
- Either civil penalty 643.151 or administrative 643.085

## SEC Disclosure –

- Currently, must disclose material risks to business or financial condition
  - 10% of current assets OR
  - Involves governmental authority and monetary sanctions -- \$300,000
- Expected Rule: climate-related risks and management

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Any Questions?

# Thank You

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