

Cracking the Whip & Dangling Carrots



O'Deana Wilson
State of Colorado
Division of Oil and Public Safety

Discussion Topics

- x **Overview**
- x **Issues**
- x **Development**
- x **Enhancements**
- x **Enforcement**
- x **Summary**

Overview - Inspection Process

- x **11 Inspectors**
 - x **Weights & Measures and LPG**
 - x **Compliance Inspectors for UST & AST locations**
- x **2869 UST inspections every 18 months**
- x **Visits are Unannounced**
- x **Records are requested in the field**
- x **Records are reviewed in our office**

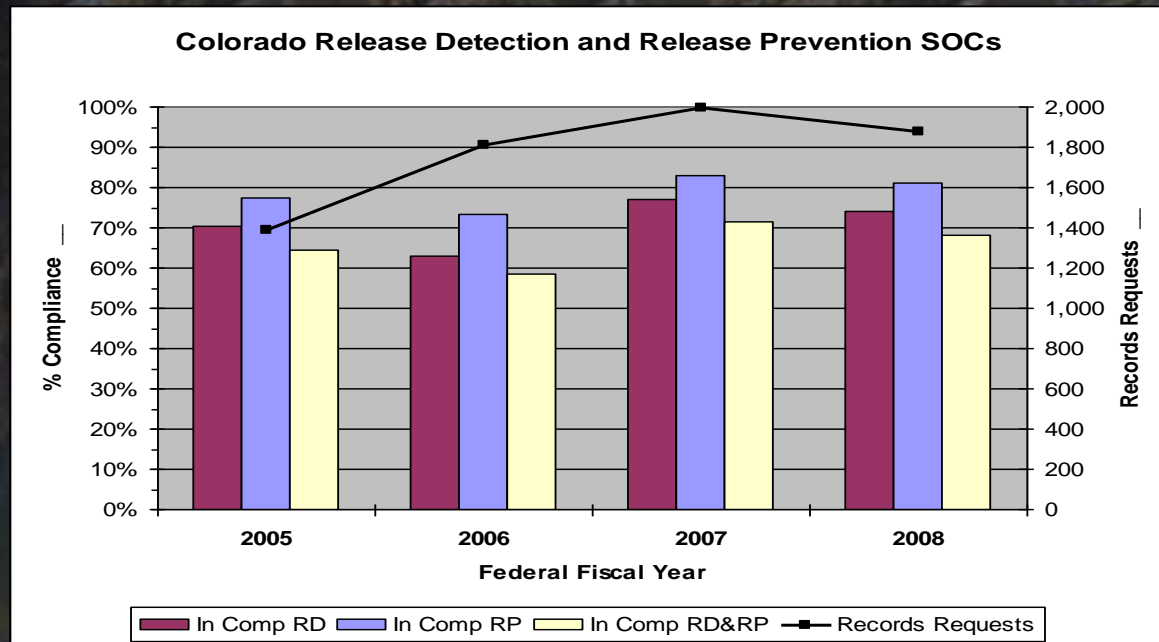


Overview - Record Reviews

- x **Why we do Record Reviews this way?**
- x **Centralized location for all records**
- x **Ensure consistencies with all record reviews from inspection to enforcement**
- x **Enables tracking of SOC percentages**

Overview - SOC Percentages

- x **In Compliance - 10/06 to 09/07 – Total inspections 1992 – Release Prevention & Release Detection - 1421 = 71.34%**
- x **In Compliance - 10/07 to 09/08 – Total inspections 1875 – Release Prevention & Release Detection - 1276 = 68.05%**



Overview - Statutes

X Article - 8-20.5 - 107

X A notice of violation may be issued by the director of the division of oil and public safety to any person who is believed to have violated any provision of this article

X The notice of violation shall set forth the facts which allegedly constitute the violation and the provisions which have allegedly been violated of either this article or any regulation promulgated pursuant thereto.

X Within ten working days after service of the notice of violation, the alleged violator may file a written request with the director of the division of oil and public safety for an informal conference regarding the notice of violation.

X Within twenty working days after the informal conference, the director of the division of oil and public safety shall uphold, modify, or strike the allegations of the notice of violation and may issue an enforcement order.

Issues - Enforcement Process

- x **Time – process was taking 90 to 120 days**
- x **Communication – Getting appropriate response**
- x **OPS - Workload**
- x **Getting Owner/Operators into compliance faster**

**Inspection
30 Days**

**Final Request
30 - 45 Days**

**Enforcement
Notice
30 - 45 Days**

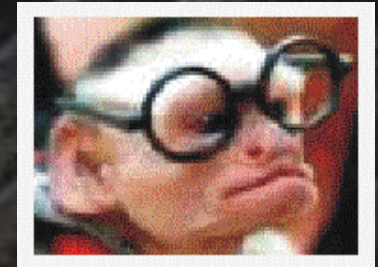
**Nov &
Settlement
30 - 45 Days**

Issue – Record Requests

- x Why are the Owner/Operators not responding**
 - x Did they receive the paper work?**
 - x Was it misplaced?**
 - x Do they know what to do?**
 - x Did they choose not to comply?**
- x Final Request sent**
- x Enforcement Notice sent**
- x NOV & Settlement sent**

Development - Feedback

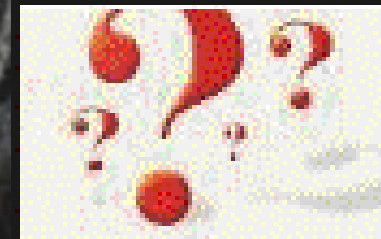
- x **Re-evaluation of our Enforcement Requests**
- x **Understanding what we were conveying**
- x **Clarification needed**
- x **Feedback from division staff**
- x **Add more detail to the letter**
- x **How to make this clearer**



Development - Questions

x **Do the Owner/Operators know what documents we are requesting?**

x **How can they comply?**



x **Is the response time practical?**

x **Can the testers complete the work?**

x **Can our division keep up?**



x **Will fines be too little or too much?**

Development - Solutions

- x Improve letter content**
- x Improve tracking**
- x OPS Workflow**
- x Resolution of time constraints**
- x Improve overall compliance**

Development - Creation of Codes

- x **Creating a coding system and a Violation Codes Table**
- x **Table encompassed all of the types records we required**
- x **We created 30 different codes for records not received**

Reg Code	Tank Type	Desc	Reg	Reg Desc	Reg Verbiage	Action
(ATG)	RD	UST	2-4-4(d)	Release Detection by Automatic Tank Gauge (UST) Gauging.	Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements: (1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and (2) Inventory control is conducted in accordance with the requirements of Section 2-4-4(a).	Immediately submit Automatic Tank Gauging documentation OR conduct a 0.10 ATG Tank Test at 90% full OR Precision Tightness Test of all tanks and product lines at your facility. Submit the results to OPS within 30 days.

Development - Partial Records

- x Partial documents received include:
 - x Not in the time frame required
 - x Tests that were performed late
 - x Some of the required documents missing for submittal
- x We created 30 more codes for these variables using (P) at the end to signify Partial

Reg Code	Tank Type	Desc	Reg	Reg Desc	Reg Verbiage	Action
(ATG P)	RDUST	Release Detection by Automatic Tank Gauge (UST)	2-4-4(d)	Failure to properly conduct and/or submit all documentation of Monthly Tank Release Detection by Automatic Tank Gauging.	Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control must meet the following requirements: (1) The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and (2) Inventory control is conducted in accordance with the requirements of Section 2-4-4(a).	Although some Automatic Tank Gauging records were submitted, they were found to be incomplete or the tests were performed late. Therefore, OPS is requiring that all testing in the future comply with submitting complete records and/or testing be performed within the specified date range.

Development - Violation Codes Table Content

- x Regulation Code
- x Regulation Type
- x Tank Type
- x Description
- x Regulation Description Verbiage
- x Action Required

Reg Code	Tank Type	Desc	Reg	RegDesc	Reg Verbiage	Action
(CPU 3)	RP UST	3-year Cathodic Protection System Test	2-3- 2(b)(1)	Failure to conduct and/or submit documentation of Cathodic Protection System testing every three years.	All UST systems equipped with cathodic protection systems must be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements: (1) Frequency. All cathodic protection systems must be tested within 6 months of installation and at least every 3 years thereafter or according to another reasonable time frame established by the Director.	Immediately submit 3- year Cathodic Protection System documentation OR conduct a 3-year Cathodic Protection System Test of all tanks, lines, and/or connectors at your facility. Submit the results to OPS within 30 days.

Development - Field Violations

- x Standardized violations**
- x What are the most common violations?**
- x Discussed violations**
- x The regulation or code it referenced**
- x Created 130 standard field violations**

Development - UST Field Violation Form

x Q&A Format – Check Box

x Codes – NFPA etc.

x Colorado Regulations

x Colorado Statutes

x Correction Times

Department of Labor & Employment – Division of Oil & Public Safety 633 17 th St., Suite #600, Denver CO 80202 - Phone 303-318-8565/8596 - Fax 303-318-8488 E-mail oilpublicsafety@state.co.us - Web http://ops.cdle.state.co.us/							# Of Tanks _____ Quarter _____	
UNDERGROUND STORAGE TANK – FIELD VIOLATION REPORT								
Fac ID#:		Facility Name:			County:			
Street Address:					City:		Zip:	
Inspector:			Inspector #:		Date of Inspection:			
Vio	Code-Regulation	Parts	Code	Spill Containment Bucket – Violations	No - Vio	Comments- Location	Days	Date
<input type="checkbox"/>	NIST 130-2008 - 4.3.2	Fill Lid Identification	FLI	Properly identify product fill lid(s) on the tank(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		30	
<input type="checkbox"/>	NFPA 30-2008 - 21.8.6	Spill Bucket	SB	Remove the water, fuel or debris from the spill bucket(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		5	
<input type="checkbox"/>	NFPA 30-2008 - 21.8.6		SBD	Replace or repair the damaged spill containment bucket(s) and/or equipment.	<input type="checkbox"/> N <input type="checkbox"/> N/A		DP	
<input type="checkbox"/>	7 C.C.R. 1101-14 - 4.1		SBSR	Call in a suspected release within 24 hours for the spill bucket(s) area. 303-318-8547	<input type="checkbox"/> N <input type="checkbox"/> N/A		1	
<input type="checkbox"/>	NFPA 30-2008 - 21.8.6	Fill Pipe	FP	Replace or repair the damaged fill pipe(s) and/or equipment.	<input type="checkbox"/> N <input type="checkbox"/> N/A		10	
<input type="checkbox"/>	NFPA 30A-2008 - 5.2.5		FPI	Properly identify the product tag on the fill riser pipe(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		30	
<input type="checkbox"/>	NFPA 30-2008 - 21.7.1.5	Overfill Device	OFD	Install, replace, or repair the missing, damaged, improperly installed, or bypassed overfill device(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		DP	
<input type="checkbox"/>	NFPA 30-2008 - 21.8.6	Drop Tube Device	DTD	Replace or repair the missing or damaged drop tube(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		DP	
<input type="checkbox"/>	NFPA 30-2008 - 21.7.1.5	Coxial Fill Pipe	CFP	Install, repair or replace the missing or damaged overfill prevention valve and/or alarm.	<input type="checkbox"/> N <input type="checkbox"/> N/A		DP	
Vio	Code-Regulation	Parts	Code	Tank Interior – Violations	No - Vio	Comments- Location	Days	Date
<input type="checkbox"/>	NIST HB130-2008 - 4.1	Water Level	WT	Remove the ½ to 2 inches of water from the tank(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		5	
<input type="checkbox"/>	NIST HB130-2008 - 4.2		WT2	Remove the 2 inches or more of water from the tank(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		Off Sale	
Vio	Code-Regulation	Parts	Code	Temporary Closure – Violations	No - Vio	Comments- Location	Days	Date
<input type="checkbox"/>	7 C.C.R. 1101-14 -2.5-1(b)	Temporary Closure	TC	Remove fuel to less than 1 inch of product in the tank(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		30	
<input type="checkbox"/>	7 C.C.R. 1101-14 -2.5-1(c)		TCE	Disconnect all the ancillary equipment and leave the vent lines open.	<input type="checkbox"/> N <input type="checkbox"/> N/A		30	
Vio	Code-Regulation	Parts	Code	Vapor Recovery – Violations	No - Vio	Comments- Location	Days	Date
<input type="checkbox"/>	NFPA 30-2008 - 23.13.7	Vapor Recovery Device	VR	Replace or repair the damaged vapor recovery equipment.	<input type="checkbox"/> N <input type="checkbox"/> N/A		10	
<input type="checkbox"/>	7 C.C.R. 1101-14 -4.1		VRSR	Call in a suspected release within 24 hours for the vapor recovery area. 303-318-8547	<input type="checkbox"/> N <input type="checkbox"/> N/A		1	
Vio	Code-Regulation	Parts	Code	Submersible Containment Sump – Violations	No - Vio	Comments- Location	Days	Date
<input type="checkbox"/>	NFPA 30A-2008 - 6.4.4	Submersible Pump Containment	STPL	Replace or repair the damaged sump lid(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		30	
<input type="checkbox"/>	C.R.S. 8-20-223		STPW	Remove the water and debris from the submersible pump (STP) area(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		10	
<input type="checkbox"/>	7 C.C.R. 1101-14 -2.2-8(e)(2)		STPF	Remove the fuel from the STP area(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		5	
<input type="checkbox"/>	7 C.C.R. 1101-14 -4.1		STPSR	Call in a suspected release within 24 hours for the STP area(s). 303-318-8547	<input type="checkbox"/> N <input type="checkbox"/> N/A		1	
<input type="checkbox"/>	7 C.C.R. 1101-14 -2.2-8(e)(2)		STPHT	Hydro Test the STP sump.	<input type="checkbox"/> N <input type="checkbox"/> N/A		5	
<input type="checkbox"/>	NFPA 30-2008 - 7.3.1	Electrical	STPE	Replace or repair the damaged STP high voltage electrical junction box(s) and/or cover(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		Off Sale	
<input type="checkbox"/>	NFPA 30-2008 - 27.3.1	Product Piping	PP	Replace or repair the leaking product piping in the STP area(s).	<input type="checkbox"/> N <input type="checkbox"/> N/A		Off Sale	

Enhancements – Implementing the Violation Codes Table

- x Linking the Violation Codes Table with our Database**
- x Writing a program to look for the codes in the Comment fields**
- x Using Access to extract the data and place into a letter format**
- x Automating the system**

Enhancements - NIC - Release Prevention

- x **NIC - 10/07 to 09/08 - Record Reviews
2635 - NIC RP Codes found 249 = 9.45%**
- x **NIC - 10/08 to 03/09 - Record Reviews
1160 - NIC RP Codes found 91 = 7.84%**

10/01/07 to 09/30/08 - Release Prevention - Not In Compliance			10/08-03/09 - Release Prevention - Not In Compliance		
Violation Code	Count Of Enforcement ID	Percent	Violation Code	Count Of Enforcement ID	Percent
(CPU3)	129	51.81%	(CPU3)	50	54.95%
(CPU3P)	18	7.23%	(CPU3P)	2	2.20%
(CPU6)	1	0.40%	(CPU6)	0	0.00%
(CPU60)	72	28.92%	(CPU60)	33	36.26%
(CPU60P)	8	3.21%	(CPU60P)	2	2.20%
(IL10)	8	3.21%	(IL10)	4	4.40%
(ILCP)	1	0.40%	(ILCP)	0	0.00%
(PCU)	3	1.20%	(PCU)	0	0.00%
(TCU)	9	3.61%	(TCU)	0	0.00%
Total	249	100%	Total	91	100%
Total Inspections	2635		Total Inspections	1160	
NIC Inspections	9.45%		NIC Inspections	7.84%	

Enhancements - NIC - Release Detection

- x **NIC - 10/07 to 09/08 - Record Reviews
2635-NIC RD Codes found 824 = 31.27%**
- x **NIC - 10/08 to 03/09 - Record Reviews
1160-NIC RD Codes found 251 = 21.64%**

10/07-09/08 - Release Detection - Not In Compliance			10/08-03/09 - Release Detection - Not In Compliance		
Violation Code	Count Of Enforcement ID	Percent	Violation Code	Count Of Enforcement ID	Percent
(ATG)	165	20.02%	(ATG)	58	23.11%
(ATGP)	60	7.28%	(ATGP)	16	6.37%
(IC)	9	1.09%	(IC)	0	0.00%
(ICP)	4	0.49%	(ICP)	0	0.00%
(INTP)	1	0.12%	(INTP)	0	0.00%
(LDO)	196	23.79%	(LDO)	75	29.88%
(LDOP)	39	4.73%	(LDOP)	1	0.40%
(LTT)	190	23.06%	(LTT)	70	27.89%
(LTTP)	34	4.13%	(LTTP)	1	0.40%
(MTG1)	20	2.43%	(MTG1)	3	1.20%
(MTG1P)	3	0.36%	(MTG1P)	1	0.40%
(MTG2)	5	0.61%	(MTG2)	0	0.00%
(SIR)	36	4.37%	(SIR)	16	6.37%
(SIRP)	9	1.09%	(SIRP)	4	1.59%
(SRU)	34	4.13%	(SRU)	5	1.99%
(TTT)	18	2.18%	(TTT)	1	0.40%
(TTTP)	1	0.12%	(TTTP)	0	0.00%
Total	824	100%	Total	251	100%
Total Inspections	2635		Total Inspections	1160	
NIC Inspections	31.27%		NIC Inspections	21.64%	

Enhancements - Addressing Fines

- x **What should the fines be for each infraction and how to get the owner/operator to comply – with a balance?**
 - x **Traffic ticket approach – ramping up from there**
 - x **Small crack of the whip and a big carrot or a big whip and a much smaller carrot?**

Reg Code	Fine Rate	# of Tanks	Total NOV Fine Amount	Risk Factor	Total Enforcement Order Fine
(IL10)	\$200.00	3	\$600.00	5	\$3,000.00
(ILCP)	\$200.00	3	\$600.00	5	\$3,000.00
(PCA)	\$200.00	3	\$600.00	5	\$3,000.00
(PCU)	\$200.00	3	\$600.00	5	\$3,000.00
(ATG)	\$150.00	3	\$450.00	4	\$1,800.00

Enforcement – Notice of Violation

x Partial or Non Response results in an NOV

x List all violations and specific issues for infractions


x Regulation citation with description

x Required action and fines

BILL RITTER, JR.
Governor

DONALD J. MARES
Executive Director

MAHESH ALBUQUERQUE
Division Director



DEPARTMENT OF LABOR AND EMPLOYMENT
Division of Oil and Public Safety - Petroleum Inspection Program
633 17th Street, Suite 500
Denver CO 80202-3660
(303) 318-8500; Fax (303) 318-6488
oil.publicsafety@state.co.us

NOTICE OF VIOLATION

February 8, 2009

COMPLIANCE MANAGER
ABC FUEL CENTER
633 17TH ST
DENVER CO 80303

Owner ID#: 21125

Re: **Submittal of Operational Compliance Records for OPS Facility ID#:492**
ABC FUEL CENTER, 633 17TH ST., DENVER, COLORADO

Dear Compliance Manager

On December 8, 2008, the Division of Oil and Public Safety (OPS) conducted a routine inspection at the above referenced facility that you own/operate. After completing this inspection, OPS left a copy of the Certificate of Inspection and a Request for Records with the person in charge of the facility at the time of the inspection or a copy was sent to the owner/operator. The Request for Records required specific information be submitted to our office within 30 days (by January 8, 2009) to document operational compliance for the time period from December 9, 2007 to December 8, 2008. All requested documentation was not submitted within 30 days.

OPS has conducted a review of the records submitted on January 5, 2009, in response to the above request. Since you have failed to submit documentation to demonstrate operational compliance, OPS has determined that you are in violation of the Colorado's Petroleum Storage Tank Regulations (7 C.C.R. 1101-14). Listed below are the violations identified for the subject facility and available compliance options. You are required to select and complete one option per violation and return a copy of this letter to OPS along with any associated required documents and/or fines.

<u>Release Detection Violations</u>		
<u>Violation #1</u>	<u>Regulation</u>	
Failures to properly conduct and/or submit all documentation of annual Line Tightness Test(s).	2-4-2(b)	Tightness Testing (Line)
No recent Line Tightness tests submitted that were due by 8/25/08. (LTTP)	A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.	

Please indicate your selected option by placing and X in the associated box.

Option 1: You are required to provide the requested records for the time frame from December 23, 2007 to December 22, 2008.

OR

Option 2: Complete the Required Actions listed below and pay the associated Fine Amount. If you have completed the Required Actions after the date range in Option 1, submit the documentation to OPS.

Required Action: Although some Line Tightness Test(s) documentation was submitted, they were found to be incomplete or the tests were performed late. Therefore, OPS is requiring that all testing in the future comply with submitting complete records and/or testing be performed within the specified date range.

Fine Amount: \$300.00

Enforcement – NOV Options

- x Submit records**
- x Complete the required action and pay the fine**
- x Have 10 days to request an informal conference related to the Notice Of Violation**
- x If NOV is upheld then it would refer back to the other options, if not, it would be a settlement**

Enforcement - Enforcement Order


- x Used when they do not comply with the NOV
- x No option to send existing documents – they must complete the required action (test the system) and pay the fine (fines will be higher in this stage)

- x Delivery Prohibition

BILL RITTER, JR.
Governor

DONALD J. MARES
Executive Director

MAHESH ALBUQUERQUE
Division Director



DEPARTMENT OF LABOR AND EMPLOYMENT
Division of Oil and Public Safety - Petroleum Inspection Program
633 17th Street, Suite 500
Denver CO 80202-3660
(303) 318-8500; Fax: (303) 318-8488
oilpublicsafety@state.co.us

ENFORCEMENT ORDER

March 12, 2009

COMPLIANCE MANAGER
ABC FUEL CENTER
633 17TH ST
DENVER CO 80303

Owner ID#: 21125

Re: **Submittal of Operational Compliance Records for OPS Facility ID#:492**
ABC FUEL CENTER, 633 17TH ST., DENVER, COLORADO

Dear Compliance Manager

On December 8, 2008, the Division of Oil and Public Safety (OPS) conducted a routine inspection at the above referenced facility that you own/operate. After completing this inspection, OPS left a copy of the Certificate of Inspection and a Request for Records with the person in charge of the facility at the time of the inspection or a copy was sent to the owner/operator. The Request for Records required specific information be submitted to our office within 30 days (by January 8, 2009) to document operational compliance for the time period from December 9, 2007 to December 8, 2008. All requested documentation was not submitted within 30 days.

OPS conducted a review of the records submitted on January 5, 2009, in response to the above request. OPS determined that the records did not satisfy or document operational compliance for the subject facility. A Notice of Violation was sent to you on February 8, 2009, stipulating required actions to achieve operational compliance. Since you have failed to submit documentation to demonstrate operational compliance, OPS has determined that you are in violation of the Colorado's Petroleum Storage Tank Regulations (7 C.C.R. 1101-14).

Release Detection Violations

Violation #1	Regulation
Failure to properly conduct and/or submit all documentation of annual Line Tightness Test(s).	2-4-2(b) Tightness Testing (Line)
No recent Line Tightness tests submitted that were due by 9/25/08. (LTTP)	A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure.

Required Action: Although some Line Tightness Test(s) documentation was submitted, they were found to be incomplete or the tests were performed late. Therefore, OPS is requiring that all testing in the future comply with submitting complete records and/or testing be performed within the specified date range.

Fine Amount: \$ 900.00

Facility ID#:492, Enforcement Order

Page 1 Enf ID:17547

Enforcement – EO Options

- x Complete the required action and pay the fine**
- x Have 20 day to request an informal conference related to the Enforcement Order**
- x If Enforcement Order is upheld then it would refer back to the other options, if not, it would be a settlement**
- x If they do not comply - judicial enforcement including collections**

Enforcement – Delivery Prohibition

x **Effective date – August 1, 2008**

x **OPS authority – Stop deliveries**

x **Causes for Delivery Prohibition**

x **Failure to comply with records request**

x **Equipment not installed or is not functional**

x **Imminent threat to human health or environment**



Summary

- x **Documentation is consistent & concise**
- x **Change in letter formatting**
- x **Implementing change to achieve**
 - x **Faster compliance from Owner/Operators**
 - x **Less impact to the environment**
- x **Clearer direction for Owner/Operators**

**Inspection
30 Days**

**Notice of
Violation
30 - 45 Days**

**Enforcement
Order and/or
Delivery
Prohibition
30 - 45 Days**

Summary

- x Update processes to improve efficiency and provide consistency**
- x Set realistic goals and provide simple tracking tools - Look at what adds value**
- x Communication between Regulators and the Owners/Operators**
- x Don't expect immediate results – but work on improving the inefficiencies to build a program that works**

Thanks

Questions –

O'Deana Wilson

Division of Oil & Public Safety

Technical Specialist

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Denver, CO 80202

303-318-8505

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