

**ROLE OF THE EPA
INSPECTOR IN PROVIDING
COMPLIANCE ASSISTANCE
Final Report**

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EXECUTIVE SUMMARY

Throughout the past twenty-five years, The Environmental Protection Agency (EPA) has relied on a strong, vigilant enforcement program as the centerpiece of its efforts to ensure compliance with the national laws. This approach has and will continue to serve the nation well, and has created in America a culture of environmental compliance that is unsurpassed in the world. Indeed, within the regulated sector, a professional class of environmental managers has emerged, managing people and systems oriented toward compliance and pollution prevention. The full range of tools, which include compliance assistance, necessary for motivating environmental law compliance must be applied in our future efforts to preserve and build on our considerable success in fostering a compliance ethic. Formal law enforcement will continue to be the central and indispensable element of effective efforts to assure compliance. In fact, compliance assistance stands little chance of succeeding without the deterrence provided by formal enforcement. Compliance assistance is not a substitute for the regulated industry's responsibility to learn and comply with the rules.

In March 1995, the Office of Compliance (OC) formed a workgroup of Headquarters and Regional staff and managers, co-chaired by the Manufacturing, Energy, and Transportation Division (METD) and Region III. The workgroup's purpose was to review the traditional roles and assess innovative roles for EPA's compliance monitoring inspectors with regard to providing compliance assistance and technical assistance to regulated facilities and to facilitate multimedia and sector-based activities. Although some compliance assistance is currently being provided by field personnel, these roles are considered an expansion of the very important traditional roles of compliance monitoring, and are not intended to replace them. It should be noted this report does not address the inspector's traditional compliance monitoring activities other than to consider when it may be appropriate to conduct compliance assistance activities in conjunction with compliance monitoring. However, this report does attempt to address the caution that an inspector should undertake when conducting a comprehensive inspection of compliance monitoring and compliance assistance.

Definitions

(1) Compliance assistance is designed to help a facility achieve or remain in compliance with environmental requirements. It answers questions such as: "What is the definition of compliance?." "How does my facility comply?" This assistance can take many forms, including but not limited to, workshops for industry, telephone hotlines, electronic bulletin boards, printed outreach materials, compliance assistance centers, and onsite assistance. The assistance can be single or multimedia in scope, and can be oriented toward complying with existing regulations, or toward achieving greater emission reductions. It can go "beyond a compliance" by identifying alternatives that may enable the facility to change its regulatory status and no longer be subject to regulations. Assistance can emphasize traditional, innovative, and/or pollution prevention approaches. The most important goal of EPA's compliance assistance programs is to help regulated entities know what they are expected to do under the law. Establishing that understanding not only helps the regulated community take more responsibility for compliance, but also makes it easier to enforce the law when those violations do occur.

(2) Compliance monitoring (i.e. traditional field determinations of compliance) consists of actions to review and evaluate the activities of the regulated community, or potential responsible parties under Superfund to determine compliance with applicable laws, regulations, permit conditions, and settlement agreements, including remediation requirements. Facilities are targeted for compliance monitoring inspections using the following strategies:

a. Random selection (neutral inspection scheme).

b. Part of an initiative based on data which indicates that this facility or sector may have a higher than average potential to be in violation, have higher than average potential to be the source of adverse impacts on the environment, and/or be located in an area with poor environmental quality.

c. Complaints or State referrals.

The primary intended use of data obtained from compliance monitoring inspections is to support formal enforcement actions and penalties. These actions force a change in environmental conditions at the facility and deter violations of environmental requirements.

Issues with Onsite Compliance Assistance

The workgroup concludes that EPA's compliance monitoring inspectors can participate in many forms of compliance assistance with little or no apparent conflict with their enforcement responsibilities and obligations. However, compliance assistance that EPA provides to a facility while onsite and/or that is site-specific, raises legal, policy, management, and resource issues about EPA's compliance monitoring inspectors handling both functions. Therefore, the workgroup focused its analysis on the proposal to have EPA inspectors provide onsite assistance.

For purposes of this report, the workgroup defined onsite compliance assistance in a set of three tiers (I, II, and III) forming a continuum from the simple to the more technically complex. The workgroup has provided detailed examples of activities in each tier in order to give a clearer picture of what onsite compliance assistance means. These examples are illustrated in Table ES-1.

Table ES-1. Continuum of Onsite Compliance Assistance

<u>Tier I: Sharing Standardized Information and References</u>	<u>Tier II: More Technically Complex and Site-Specific</u>	<u>Tier III: Most Technically Complex and Site-Specific</u>
<ul style="list-style-type: none"> • Providing physical copies of requirements. • Conveying an understanding of requirements. • Providing information including prepared guidance, manuals, and technology transfer documents. • Providing information on what assistance can be gained from EPA, State, and local programs. • Providing information on what assistance can be gained from trade and other (i.e., public) organizations. • Sharing information on control practices and equipment used within a specific sector to comply with environmental regulations. • Providing published technical information and/or advice for simple solutions that do not require a significant amount of resources or liability to the source/facility or regulatory agency. • Providing prepared literature on pollution prevention techniques and opportunities. • Providing suggestions on simple techniques and concepts to reduce or eliminate pollution (e.g., housekeeping tips). 	<ul style="list-style-type: none"> • Sharing information on compliance status. • Providing review of compliance status. • Sharing information and insight into their particular problem, and what might be evaluated to remedy the problem. • Providing technical assistance on recognized industry or sector-based practices and concepts to reduce or eliminate pollution (e.g., chemical substitution, equipment changes). 	<ul style="list-style-type: none"> • Providing information on specific commercial consultant services. • Providing interpretations of the finer points of regulatory requirements. • Providing detailed design information on a source/facility's particular problem. • Providing unwritten policy interpretations on regulatory requirements. • Providing detailed facility--specific engineering design and materials management information that advances pollution prevention.

Rationale for a Formal Federal Onsite Compliance Assistance Program

The primary, and in many cases, the only contact most of the regulated community has with EPA is through its inspectors. The inspector interacts with plant managers who are the most familiar with operations of the facility and are oriented to "getting the job done." Secondly, many EPA employees who conduct field work have gained significant experience in the environmental aspects of a particular process, experience that few operational managers possess. This experience derives from the opportunities they have to visit, monitor, and compare environmental practices and mechanisms at numerous facilities with similar operations.

In general, the workgroup found through discussions with Regional staff and managers, that some amount of compliance assistance has always occurred during EPA's history of conducting compliance monitoring inspections. However, this is not being done systematically or in a controlled fashion, because it is not explicitly defined as part of all compliance monitoring inspectors' jobs, and not all compliance monitoring inspectors have received relevant materials and training. The workgroup has concluded that, to some degree, a Federal role is appropriate, but the extent of this role and how EPA personnel should carry it out are the primary questions that this report addresses.

Coordination of EPA's Approaches with Those of State and Local Agencies

The workgroup recognizes that the majority of compliance monitoring inspections and compliance assistance activities occur at the State and local levels, and that EPA's approaches and policies must be designed with this in mind. The workgroup examined the approaches used by several State and local agencies in providing compliance assistance to the regulated community, particularly onsite compliance assistance. This research showed that most State and local agencies have separated compliance assistance, compliance monitoring and enforcement programs. However, some informal past practices have blended the activities, and more States are moving to more formal blending of these activities, primarily because of diminishing resources. In other States, separate programs, e.g., the Small Business Assistance Program required by the Clean Air Act Amendments of 1990, are operating effectively.

Options for Integrating Compliance Monitoring and Onsite Compliance Assistance

After examining the pros and cons of the different tiers of assistance, the workgroup developed three options (A, B, and C) for integrating onsite compliance assistance with compliance monitoring inspections. These options address different ways of handling **Tier I and II** onsite assistance. After thorough discussion, the workgroup agreed that the most technically complex, and site-specific level of onsite assistance, **Tier III**, was generally **not** an appropriate EPA inspection activity. However, there may be limited instances where Tier III assistance is appropriate: for example, where EPA has a unique responsibility in carrying out its duties with Indian tribes and at federal facilities. As a result of this very limited application of Tier III assistance, the workgroup felt that it was not necessary to address **Tier III** in any of the options.

Description of the Options

In each option, the workgroup addresses what activity will be done: a compliance monitoring inspection (CMI) and/or onsite compliance assistance (CA); how this would be done, either during the inspection or during a separate site visit; and who would carry out the activity, a compliance monitoring inspector or other field personnel. The pros and cons for each option are presented in terms of seven key issues: Agency credibility, legal, expertise, resources, training, State relations, and expected benefits.

In evaluating the options, the workgroup found that while moving along the continuum of onsite assistance from separate to blended programs, the following occurs: (1) the legal risks to EPA's enforcement program increase; (2) the compliance monitoring inspector's liability increases; (3) the training needs and resources to develop requisite expertise to maintain the Agency's credibility increase substantially; and (4) the educational background of the inspector needs to be more technical and of a higher level, e.g., college, graduate school, which may affect recruitment and retention.

! **Option A** - Compliance Monitoring Inspection Separate From Onsite Compliance Assistance:

- Under this option compliance monitoring inspections and onsite assistance are separate.
- Compliance monitoring inspectors would not provide onsite compliance assistance; other field personnel may do this.
- Onsite compliance assistance (**Tiers I and/or II**) may be offered during a separate site visit.

! **Option B** - Minimal Onsite Compliance Assistance Provided in Conjunction with Compliance Monitoring:

- Under this option, EPA would provide **Tier I** assistance, including standardized information, such as: copies of requirements; prepared guidance and technical documents; information on assistance that is available from EPA, State and local programs and/or trade organizations; and information about the facility's compliance status.
- Compliance monitoring inspectors would provide this assistance.
- **Tier II** assistance may be provided during a separate site visit by either the inspector or other field personnel, or during the same visit, but clearly defined and understood separate phases of the visit.

! **Option C** - Fully Integrated Onsite Compliance Assistance and Compliance Monitoring:

- Under this option, both **Tier I and II** onsite assistance would be fully integrated into the inspection visit.
- Onsite compliance assistance would entail providing information that could assist in returning the facility to compliance, **including** a detailed review and explanation of a facility's compliance status with recommendations on possible corrective action(s).

Conclusions and Recommendations

After weighing the pros and cons of the various options for developing and maintaining an inspection capability that integrates compliance monitoring with compliance assistance, the workgroup developed the following conclusions and recommendations.

- ! Onsite compliance assistance can be viewed as a continuum from the simple to the more complex. The most technically complex, and site-specific level of onsite inspection assistance, **Tier III**, is generally **not** an appropriate EPA inspection activity. Therefore, the workgroup did **not** address **Tier III** in any of the options.
- ! **Options A, B, and C** are appropriate to use in Agency field operations in conjunction with compliance monitoring, depending on the nature of the compliance problems involved, the type, size and complexity of the facility, and other factors. However, as the Agency moves from **Option A** to **Option C**, legal risks increase.
- ! The use of any of these options depends on the training and expertise of EPA's field personnel in the techniques and methods of compliance monitoring inspections, and the techniques and methods of onsite compliance assistance.
- ! These options should be viewed as elements in a "tool box" to be utilized as deemed appropriate by Agency compliance managers.
- ! To be most effective, Agency decisions about which option(s) should be implemented to address an environmental problem or non-compliance situation should be made during up-front planning and targeting processes, particularly in the development of sector-based strategies.

1.0 BACKGROUND

1.1 Introduction

On March 16, 1995, Elaine Stanley, Director, Office of Compliance (OC), Office of Enforcement and Compliance Assurance (OECA), issued a memorandum soliciting the formation of an Agency workgroup charged with the responsibility of assessing traditional and potentially new innovative approaches concerning the role of Environmental Protection Agency (EPA) compliance monitoring inspection personnel, particularly as they relate to providing sources and facilities compliance assistance and technical assistance during field operations or follow-up activities.

Subsequently, the Role of the Inspector Workgroup was established, which included representatives of OECA and the Regions. Workgroup co-chairs were designated; sub-workgroups were established to flesh out categorical issues (e.g., legal, training, etc.); and individual workgroup members were charged with taking the lead on specific issues. Appendix A includes a list of workgroup members. Weekly conference calls of the workgroup members were convened to discuss various matters, and issues focused upon documents and position papers generated by the various sub-workgroups, or those developed through individual workgroup assignments.

Senior managers within OECA were briefed on the workgroup's progress, including the identification of issues, a list of various options (including pros and cons), and a framework that builds upon the traditional role of field compliance personnel in relation to compliance and technical assistance support.

While the workgroup recognized that the majority of inspection and compliance assistance activities take place at the State and local level, the design of this report is limited only to the role of the EPA compliance monitoring inspector or field person. The next step in the implementation of this approach should consider its application by State and local agencies. It might be appropriate to develop those roles and their relationships with our State and local partners, such that the concepts developed here may be more broadly implemented.

1.2 Objective and Goal

Objective - The workgroup took its directive from the March 16, 1995, memo from Elaine Stanley:

- ! Clarify the duties and roles of EPA inspectors . . . analyze these issues (improve performance and become more efficient . . . pursue multimedia inspections, develop sector-based tools, provide compliance/technical assistance . . .) and design a framework under which EPA inspectors can undertake this comprehensive approach and provide compliance response.

Goal - To produce a comprehensive report on prospective "roles of the inspector providing compliance assistance." The workgroup has chosen to report three options to OECA management, any one of which will answer the need for EPA field personnel capable of promoting environmental compliance. The workgroup has also undertaken to provide management with recommendations, resource implications and other implementation issues, and State agency examples for each option. The options themselves have been developed after a thorough consideration of the pros and cons of each.

1.3 Issues

The workgroup identified three basic options for compliance monitoring inspectors to provide compliance assistance, technical assistance, and information intended to reduce pollutant discharges beyond levels required by regulation. Each option could be applied on a single-media, multimedia, or sector basis. Each of these options, including associated pros and cons, are discussed in Section 3.0. The pros and cons for each identified option are related to the following issues:

- ! **Agency Credibility** - How does the Agency embrace the concept and implementation of compliance monitoring inspectors conducting compliance and technical assistance without jeopardizing its historical compliance monitoring and enforcement/regulatory presence?
- ! **Legal** - What assurances need to be provided relating to the appropriate level of compliance and technical assistance that EPA can provide, and still preserve the integrity of its compliance/enforcement actions, and protect the field person from confidentiality suits and liability actions?
- ! **Expertise** - What level of proficiency and expertise can individual compliance monitoring inspectors be expected to achieve before they provide compliance and technical assistance on singular, sector, and/or multimedia basis?
- ! **Resources** - How does the Agency, with limited resources, provide for effective compliance and technical assistance while maintaining sufficient time to conduct appropriate and necessary compliance monitoring, evidence gathering, and case development?

- ! **Training** - Does the Agency have in-house capabilities and necessary funding to sufficiently and effectively train compliance monitoring inspectors concerning enhancement of compliance and technical assistance to the desired level of expertise necessary to effectively provide these services? What level of training and assistance should be provided to the States to complement Agency compliance and technical assistance activities?

- ! **Policy Implications** - What types of new policies and/or guidance would be needed to implement any option?

- ! **State Relations** - What mechanisms, such as MOAs and Performance Partnership Agreements, will ensure that the Agency and the States are in harmony and agreement relating to compliance monitoring inspectors providing source/facility compliance and technical assistance?

- ! **Expected Benefit** - What are the benefits expected to occur to the regulated community, public health, and to the environment?

2.0 IMPACT OF NEW DIRECTIONS IN COMPLIANCE ASSURANCE ON EPA'S FIELD WORK AND FIELD PERSONNEL

New directions in compliance assurance that OECA is developing are affecting the nature and types of field work and the roles and responsibilities of EPA'S field personnel. Three new directions are most significant. These include the following:

- ! The development of coordinated multimedia, whole-facility, and pollution prevention oriented compliance assurance strategies;
- ! The emphasis on the sector approach to compliance assurance; and
- ! The expansion of compliance assistance to the regulated community.

These new directions are changing the traditional compliance monitoring field work performed by EPA'S compliance monitoring inspectors, and creating the potential for new types of field work, such as onsite compliance assistance, to be conducted by compliance monitoring inspectors and/or other EPA field personnel.

Size of EPA's Inspector Cadre - The largest cadre of EPA field personnel are compliance monitoring inspectors. Using 1992 data, EPA estimated that about 1,255 employees conducted compliance inspections in fifteen Agency programs, excluding Superfund. A 1987 study showed that about two-thirds of EPA'S compliance inspectors performed this function during less than 20 percent of their time annually. (This was presumed to be the case, until reorganization of enforcement and compliance assurance in 1994. Reorganization at the Regional level of EPA may have affected how the compliance monitoring inspection function is organized and who and how many employees are conducting inspections. In some instances, the function may have become more concentrated in the hands of fewer field personnel.)

Other EPA field personnel providing onsite assistance are those in some Regions who are staffing the pollution prevention programs. Recently, some Regions have established small business or small community ombudsmen, although these persons are not usually responsible for onsite assistance.

2.1 Compliance Monitoring: New Types of Compliance Inspections and New Types of Inspectors

Regulatory-Based Inspections - Traditionally, the facility inspection has consisted of a regulatory-based inspection in which a compliance monitoring inspector performs inspections under regulations pertaining to one media, e.g., air, water, or waste. [See Appendix B *Traditional and New Roles for EPA Field Personnel*.] Since 1991, EPA has been conducting multimedia, regulatory-based inspections with varying results. Some cross-program training has occurred for individual inspectors, and where appropriate teams of inspectors with single media expertise have been used to carry out multimedia compliance monitoring inspections. In the future, EPA is likely to maintain the regulatory-based inspection approach (be it single or multimedia), but it is also likely that the scope of this inspection will be expanded to include a compliance assistance component.

Multimedia, Sector-Based Inspections - However, EPA is now more systematically integrating both multimedia and sector-based concepts into compliance monitoring strategies, inspection protocols, and guidance. Using the information gained through multimedia profiling of facilities and sectors, new types of inspections are being developed that are sector-oriented and process-based, rather than solely regulatory-based. As a consequence, some compliance monitoring inspectors will need to develop new kinds of expertise about industrial processes and patterns that occur within specific sectors. These types of expertise go beyond the traditional expertise required in program-specific regulations, pollution control technologies, and inspection techniques and methods. (How these different inspection approaches will be applied to which facilities and/or sectors and the numbers of each type of inspector needed are outside the scope of this paper.)

Future Inspections of Environmental Management Systems - Also, it may be possible in the future, that EPA compliance monitoring inspectors will be involved in evaluating facilities' environmental management systems. This role depends on the results of pilot projects under the Agency's Environmental Leadership Program (ELP), Project XL, and the six Common Sense Initiatives (CSIs).

New Types of Compliance Monitoring Inspector/Expertise - With a range of compliance inspection types (regulatory-based and process-based), EPA anticipates needing a variety of compliance monitoring inspectors. For example, EPA may need the following:

- ! A "**regulatory program specialist**" in one or more statutes and who conducts compliance monitoring inspections at a wide range of industrial sectors; and alternatively,
- ! An "**industrial sector expert**" with extensive industrial process knowledge, industry-specific pollution prevention knowledge, and the knowledge of one or more statutes.

Education, training, and field experience for these types of inspectors will vary considerably, and will affect the extent to which each would be qualified to perform additional field work, such as compliance assistance. Section 4.3 and Appendix E describe these new types of field personnel and associated training paths.

2.2 Compliance Assistance: New and/or Expanded Responsibilities

In general, compliance assistance is information offered to help the regulated parties to understand and comply with environmental regulations. This assistance is designed to help the facility answer questions such as: "What is the definition of compliance?" "How does my facility achieve it?" Historically, EPA has provided some compliance assistance usually tied to the initial implementation of new regulations, but not the type of comprehensive, multimedia compliance assistance, nor site-specific compliance assistance, as envisioned under OECA's new programs.

The following section defines the term onsite compliance assistance for the purposes of this report. This definition is key to developing the policy options on the role of compliance monitoring inspectors in compliance assistance that appear later in this report.

2.2.1 Compliance Assistance Definition: A Continuum

Compliance assistance is a very broad continuum from the simple to the more complex. For purposes of this report, compliance assistance is the act of providing information to the regulated community to help them achieve or remain in compliance with environmental requirements.

This assistance can be "regulatory-oriented" and focus on achieving compliance with existing regulations by means of traditional pollution control methods, or the assistance can be pollution prevention oriented and encourage the use of innovative technologies. The assistance could also go "beyond" compliance to achieve pollutant reductions that exceed existing requirements or that address unregulated, but harmful environmental releases.

Compliance assistance can take many forms. These could include workshops with industry, hotlines, electronic bulletin boards and outreach materials, compliance assistance centers, onsite visits, as well as "sector-based" initiatives where a program works with an entire industry sector through a compliance assistance campaign.

Providing environmental compliance assistance is the responsibility of EPA, State, and local environmental regulatory agencies; special State and local organizations; universities and other nonprofit organizations; consultants; trade organizations; and the regulated community itself. Among the general compliance assistance activities that EPA is conducting and evaluating are technology transfer information systems and seminars, publications, business assistance offices, Common Sense Initiatives, etc.

Compliance assistance is defined as: "Information or advice provided by regulatory agencies to the regulated community to help

affected parties understand and comply with statutory and/or regulatory requirements," and technical assistance is "the act of providing engineering or scientific solutions/recommendations for specific conditions."

Onsite Assistance as a Continuum: Tiers I, II, and III - The workgroup extensively discussed the definition of onsite compliance assistance and the term technical assistance. We found that there is no common usage for either term, and that technical assistance appeared to be like compliance assistance, only more technically complex. But the point at which some activity is no longer compliance assistance but, instead, is technical assistance, is a "point" that the group could not define clearly. Therefore, we chose to present onsite compliance assistance as a continuum that includes activities from the sharing of standardized types of information to the most technically complex and site-specific assistance activities.

However, in structuring Tiers I, II, and III, we recognize that many readers will tend to identify Tier I as onsite "compliance" assistance, and Tier III as onsite "technical" assistance, with Tier II being somewhere in the middle. Because the distinctions between the tiers are not clear cut, we have defined specific examples of activities that field personnel would carry out in each tier, and avoided using the term, "technical assistance." This is the best solution we could devise. Without these tiers and the specific examples of activities, we could not develop any meaningful options for the role of the inspector in onsite compliance assistance, nor could we identify the pros and cons of any options. By defining a continuum and using Tiers I, II, and III, we have overcome these difficulties. **Table 2-1** illustrates examples of activities included in Tiers I, II, and III.

Table 2-1. Continuum of Onsite Compliance Assistance

<u>Tier I: Sharing Standardized Information and References</u>	<u>Tier II: More Technically Complex and Site-Specific</u>	<u>Tier III: Most Technically Complex and Site-Specific</u>
<ul style="list-style-type: none"> • Providing physical copies of requirements. • Conveying an understanding of requirements. • Providing information including prepared guidance, manuals, and technology transfer documents. • Providing information on what assistance can be gained from EPA, State, and local programs. • Providing information on what assistance can be gained from trade and other (i.e., public) organizations. • Sharing information on control practices and equipment used within a specific sector to comply with environmental regulations. • Providing published technical information and/or advice for simple solutions that do not require a significant amount of resources or liability to the source/facility or regulatory agency. • Providing prepared literature on pollution prevention techniques and opportunities. • Providing suggestions on simple techniques and concepts to reduce or eliminate pollution (e.g., housekeeping tips). 	<ul style="list-style-type: none"> • Sharing information on compliance status. • Providing review of compliance status. • Sharing information and insight into their particular problem and what might be evaluated to remedy the problem. • Providing technical assistance on recognized industry or sector-based practices and concepts to reduce or eliminate pollution (e.g., chemical substitution, equipment changes). 	<ul style="list-style-type: none"> • Providing information on specific commercial consultant services. • Providing interpretations of the finer points of regulatory requirements. • Providing detailed design information on a source/facility's particular problem. • Providing unwritten policy interpretations on regulatory requirements. • Providing detailed facility-specific engineering design and materials management information that advances pollution prevention.

Discussion of Tiers I, II, and III

Tier I: In general, the workgroup found through discussions with Regional staff and managers, that some **minimal** amount of compliance assistance is occurring during compliance monitoring inspections, but that this is not systematic because it is not explicitly defined as part of all compliance monitoring inspectors' jobs, and that not all compliance monitoring inspectors have received relevant materials and training. The activities defined in Tier I are most like what some inspectors are currently providing. In a sense this tier represents the **status quo**.

Tier II: The middle tier is where the elements of onsite compliance assistance and technical assistance intermingle. Activities in this tier go beyond the sharing of standardized information, references and materials, and begin to deal with the particulars of the facility.

Tier III: The activities defined in Tier III contain elements of our working definition of "technical assistance." Our working definition is as follows:

"Technical assistance is the act of providing engineering or scientific solutions/recommendations for specific site conditions. Technical assistance can be used to provide solutions for single or multimedia issues, such as pollution prevention opportunities. Technical assistance does not always result in physical changes at the facility (e.g., construction activities), but could include changes to facility operations (e.g., facility task assignments to personnel). Also, technical assistance can be directed at environmental improvements that go beyond regulatory requirements."

The workgroup believes that providing environmental "technical assistance" as defined in Tier III, is not necessarily the responsibility of the EPA.

After thorough discussion, the workgroup agreed that the most technically complex, and site-specific level of onsite assistance, **Tier III** is generally **not** an appropriate EPA inspection activity. Therefore, this **report does not** include **Tier III** in any of the options.

2.2.2 Role of EPA Field Personnel in Onsite Compliance Assistance

Of the many forms that compliance assistance can take, it is likely that compliance monitoring inspectors can participate in workshops for industry, or assist in development of compliance assistance materials with little or no apparent conflict with their enforcement responsibilities onsite during compliance monitoring inspections. This is because these two types of compliance assistance are aimed at groups of facilities rather than individual, facilities; and these types of assistance do not occur onsite at an individual facility.

However, compliance assistance that is provided onsite and/or that is site-specific, raises policy, management, and legal issues about the possible role of EPA compliance inspectors in handling these functions.

Key issues facing OECA in designing onsite compliance assistance programs involving field personnel are as follows:

- ! Should EPA separate or integrate the compliance assistance and the compliance monitoring functions and personnel?
- ! To what extent, if any, should EPA deliver site-specific compliance assistance?

Section 3.0 contains the options that the workgroup developed for addressing the first question. The analysis of these three options includes the pros and cons of each in terms of important policy and implementation issues that the workgroup identified. These issues include Agency credibility, legal, expertise, resources, training, State relations, and expected benefits (to the regulated community and for public health and the environment).

Section 4.0 (Implementation Issues and Discussion) discusses legal/policy issues, State and local models/relations, training EPA field personnel, and estimating resource needs.

Section 5.0 (Conclusions and Recommendations) addresses the second question: the extent to which EPA should provide onsite compliance assistance. The extent to which EPA should deliver site-specific" compliance assistance depends on how far along the continuum of compliance assistance that program managers want to proceed, given the risks and benefits.

3.0 OPTIONS FOR PROVIDING ONSITE COMPLIANCE ASSISTANCE

This section describes Options A, B, and C, and lists the pros and cons in separate tables for each option, using a series of common issues (Agency credibility, legal, expertise, resources, training, State relations, and expected benefits). The pros and cons address the primary legal, policy, and programmatic issues identified by the workgroup.

3.1 Option A. Compliance Monitoring Inspection Separate from Onsite Compliance Assistance

Relationship of CMI and Onsite CA Under Option A		
What Activity	CMI	Onsite CA: Tiers I and/or II
How	During Compliance Monitoring Inspection	During Separate Site Visit
Who	Compliance Monitoring Inspector	Other Field Personnel

Under this option, compliance monitoring inspectors would not provide any onsite compliance assistance during compliance monitoring inspections. If EPA provided Tier I or Tier II compliance assistance, this would be handled by other field personnel during a separate site visit. **Table 3-1** lists the pros and cons of this option.

Table 3-1. Pros and Cons Associated with Option A (Separate CMI/CA)

Issue	Pros	Cons
Agency Credibility	<ul style="list-style-type: none"> Agency enforcement actions are not jeopardized. 	<ul style="list-style-type: none"> Potential for conflict between compliance monitoring inspector and compliance assistance personnel.
Legal	<ul style="list-style-type: none"> Maintains Agency credibility. Maintains the legal responsibility to report noted violations. Minimizes personnel liability of compliance inspectors. 	
Expertise	<ul style="list-style-type: none"> Maintains Agency enforcement experts to carry out enforcement tasks correctly. 	<ul style="list-style-type: none"> Limits the use of the inspector's technical knowledge and experience.
Resources	<ul style="list-style-type: none"> Preserves resources for enforcement compliance related activities. 	
Training	<ul style="list-style-type: none"> Compliance monitoring inspectors do not have to be trained to provide compliance assistance. 	
State Relations	<ul style="list-style-type: none"> Avoids potential conflicts with State Agency counterparts. 	
Expected Benefits		<ul style="list-style-type: none"> Not allowing the compliance monitoring inspector to provide compliance assistance may delay environmental improvement.

3.2 Option B. Minimal Onsite Compliance Assistance (Tier I)

Under this option, compliance monitoring inspectors would provide limited (Tier I) onsite compliance assistance during compliance monitoring inspections. This assistance would be limited to providing standardized information, such as copies of requirements, prepared on assistance available from EPA, State, and local programs and trade public organizations, and information on the facility's compliance status. If EPA provided Tier II assistance, this could be handled by a trained compliance inspector or other field person, but **only** during a separate site visit. **Table 3-2** lists the pros and cons for this option.

Relationship of CMI and Onsite CA Under Option B		
What Activity	CMI + CA Tier I	CA Tier II
How	During Compliance Monitoring Inspection	During Separate Site Visit

Table 3-2. Pros and Cons Associated with Option B (Minimal Onsite CA)

Issue	Pros	Cons
Agency Credibility	<ul style="list-style-type: none"> Minimizes jeopardizing Agency credibility. 	<ul style="list-style-type: none"> Potential for conflict between compliance monitoring inspector and compliance assistance personnel. Lack of clarity and definition of role of the EPA representative may lead to confusion of expectations on the part of the regulated community.¹
Legal	<ul style="list-style-type: none"> Minimizes jeopardizing Agency enforcement actions. Maintains the legal responsibility to report noted violations.¹ 	<ul style="list-style-type: none"> Potential conflicts with confidentiality matters.¹ Increases personal liability of Agency representatives.
Expertise	<ul style="list-style-type: none"> Clarifies/minimizes differing roles: Inspector (fact finding) versus Compliance/Technical Assistance (counseling function). Helps maintain Agency enforcement experts to carry out enforcement tasks correctly. 	<ul style="list-style-type: none"> Limits the use of the inspector's technical knowledge and experience. The talents and interpersonal skills necessary for a good inspector may not be those necessary for providing compliance assistance.
Resources	<ul style="list-style-type: none"> Helps preserve resources for enforcement/compliance related activities. 	<ul style="list-style-type: none"> Sending out compliance assistance personnel first may require greater resources later if an enforcement case results.
Training		<ul style="list-style-type: none"> Requires resources to train compliance monitoring inspectors.
State Relations	<ul style="list-style-type: none"> Helps avoid potential conflicts with State Agency counterparts.¹ 	<ul style="list-style-type: none"> Logistical problems with States that perform separate functions.¹
Expected Benefits		<ul style="list-style-type: none"> Limiting the compliance monitoring inspector's ability to provide assistance may delay environmental improvement.

¹These pros and cons are also policy issues since they may necessitate the development of new policies and/or guidance.

3.3 Option C. Fully Integrated Onsite Compliance Assistance (Tier II)

Under this option, onsite compliance assistance (Tier II) provided during a compliance monitoring inspection would include information that could assist in returning the facility to compliance, including a detailed review and explanation of a facility's compliance status and recommendations on possible corrective actions. However, detailed recommendations regarding pollution control equipment selection and design and manufacturing process design are not provided. **Table 3-3** lists the pros and cons of this option.

Relationship of CMI and Onsite CA Under Option C	
What Activity	CMI + CA Tiers I and II
How	During Compliance Monitoring Inspection

Table 3-3. Pros and Cons Associated with Option C (Combined Onsite CA)

Issue	Pros	Cons
Agency Credibility	<ul style="list-style-type: none"> Minimizes conflicting messages regarding compliance status. 	<ul style="list-style-type: none"> Facility personnel and compliance monitoring personnel may be confused to some degree over combined roles. Increases chance of making mistakes on compliance status determination.
Legal	<ul style="list-style-type: none"> Maintains the legal responsibility to report noted violations.¹ 	<ul style="list-style-type: none"> Statements made by field personnel may weaken the Agency's position in ensuring compliance/enforcement actions. Greatest risk to personal liability of Agency representatives.
Expertise	<ul style="list-style-type: none"> Offers field compliance personnel opportunities for career enhancement and development. Enhanced program expertise strengthens the Agency's ability to negotiate stronger compliance agreements. 	<ul style="list-style-type: none"> May limit the use of the inspector's technical knowledge and experience, thereby wasting a valuable Agency resource. The talents and interpersonal skills necessary for a good inspector may not be those necessary for providing compliance assistance.
Resources	<ul style="list-style-type: none"> Improves the use of existing resources for providing compliance/technical assistance while preserving lesser resources for enforcement. 	<ul style="list-style-type: none"> Sending out compliance assistance personnel first may require greater resources later if an enforcement case results.
Training		<ul style="list-style-type: none"> Requires extensive resources to train compliance monitoring inspectors to provide detailed compliance/technical assistance.
State Relations		<ul style="list-style-type: none"> Logistical problems with States that perform separate functions.¹
Expected Benefits	<ul style="list-style-type: none"> May reduce time for returning a facility into compliance and result in quicker improvement to the environment. Promotes "holistic" approach. 	

¹These pros and cons are also policy issues since they may necessitate the development of new policies and/or guidance.

4.0 IMPLEMENTATION ISSUES AND DISCUSSION

4.1 Legal Issues

Legal issues were examined in a number of workgroup meetings and comments were solicited from Regional workgroup members. Hypothetical situations were proposed and responses examined and synthesized for the report.

There were no legal issues raised for Option A or "traditional" role of the inspector as all inspections now performed by EPA are consensual or are under inspection authority set forth in the environmental statutes. Questions were raised in the context of Option B and Option C site visits.

Generally, the most troublesome issues were: vulnerability of the Agency, vulnerability of an enforcement action, and vulnerability of EPA representatives.

Vulnerability of the Agency

! Citizens' Suits

- Suits for Nonfeasance - If the Agency has a non-discretionary duty, or legal obligation, to perform certain inspections and to take enforcement actions based on those inspections, to fail to either inspect or to carry out an enforcement action could leave the Agency vulnerable to citizen suits.
- Confidentiality - If EPA were to become privy to information of a violation in the course of providing compliance assistance, and the structure of the compliance assistance project assured no disclosure and enforcement action, the Agency could be the defendant in a citizens' suit or a private suit for subsequent harm.

! Conflict with State - If a State separates enforcement and compliance assistance functions, issues of confidentiality would arise if a joint State inspection and Federal site visit were attempted and violations are found.

! Criminal Enforcement - Any assurances of non-prosecution given during the site visit could compromise a subsequent criminal action.

Vulnerability of EPA Enforcement Action

- ! Lack of Consent - If violations were found during a compliance assistance visit, and an enforcement action taken, respondent's can argue lack of notice of an inspection (required by many, environmental statutes), and lack of consent for search and seizure of evidence. (4th and 5th Amendments).
- ! Estoppel - Respondents in a post-visit enforcement action could argue that EPA had chosen to offer compliance assistance and was therefore barred from taking legal action. They might also argue that they had relied on the advice of an EPA representative as a bar to the Agency's later legal action.

Vulnerability of EPA Representatives

- ! Adverse Witnesses - Compliance assistance representatives could be called to testify against the Agency because of their involvement with the company prior to the initiation of an enforcement action.
- ! Personal Liability Under the Federal Tort Claims Act - EPA Representatives could be sued personally for any damage or violation that flowed from a company's reliance upon their technical or legal advice given during the site visit.

The workgroup's response to the argument of vulnerability of Agency post compliance assistance enforcement actions and the vulnerability of EPA representatives who offered compliance assistance was that these potential situations could be addressed by training compliance assistance staff. Early clarification of the roles of the representative, the limits of his/her authority, and a clear understanding of the recipients of compliance assistance as to their opportunities, responsibilities, and potential liabilities under EPA compliance assistance offers must be a part of the expanded role of the inspector. The question of the vulnerability of the Agency to citizens' suits or suits for nonfeasance under the environmental statutes should be referred to the Office of Compliance.

Other Issues

While not strictly legal issues, peripheral "blended role" implementation issues were raised: whether the Agency could maintain its credibility as an enforcement agency if it "softened" its role to include compliance assistance visits; whether the Agency can retain its level of field regulatory expertise if inspectors were required to fulfill inspection and compliance assistance functions; and whether one set of Agency field people can perform so many functions. There

was also concern that, if the Agency went to dual functions, adequate enforcement resources would not be preserved for enforcement actions, thus compromising this aspect of the Agency's mission.

4.2 State and Local Models/Relations

The workgroup examined the different approaches that State and local environmental agencies are using to provide onsite compliance assistance to the regulated community. The workgroup relied on two sources of information: an informal poll of EPA Regions by the OECA's Multimedia Enforcement Division (MED) about the status of State programs; and the information about State and local agency programs for small business assistance, gathered in late 1994/early 1995 by OECA's Workgroup on Measures of Success for State and Local Compliance Assistance Programs.

4.2.1 Informal Poll Regarding State CA Programs

In response to an inquiry from OECA's senior management, the Regional representatives of MED informally polled the EPA Regions, asking which States separate the enforcement inspection function from compliance assistance. The informal results (13 States are not included) show that the majority (75 percent) of the States covered divide these functions between separate offices with separate staff, but indications are that this "philosophy" is changing. This is demonstrated by referrals from enforcement offices to the compliance assistance offices. Pollution prevention functions and technical assistance are often contracted out to State universities or placed in offices other than environmental offices. The results of this informal poll are included in **Appendix D**.

This research showed that most State and local agencies separate compliance assistance programs and personnel from compliance monitoring and enforcement. To the extent that EPA adopts a similar approach, there will likely be fewer coordination issues. To the extent that EPA does the opposite and integrates these programs and personnel, there will likely be more coordination issues.

4.2.2 Selected State and Local Models

The descriptions and analysis of State and local programs gathered by OECA's Workgroup on Measures of Success for State and Local Compliance Assistance Programs focused on environmental compliance assistance programs to help small businesses. This material is summarized in **Appendix D, "Federal, State and Local Models."** (See **Table 4-1.**)

Table 4-1. Selected State and Local Models

Model One. Compliance Assistance As Part of Inspection by Inspectors	
Name:	Santa Rose Compliance Incentives Program
Location:	City of Santa Rosa and Sonoma County, California Agency: POTW and other county agencies responsible for environmental compliance.
Onsite CA:	Yes, as part of compliance monitoring inspection.
Program:	
Focus:	Multimedia compliance by the vehicle service and repair industry, with emphasis on cleaning up discharges to the sewers.
Model Two. Compliance Assistance Delivered During a Compliance Assistance Visit by Inspector Staff. (Sometimes referred to as the "Gray-Hat" model)	
Name:	Hazardous Waste Outreach Program
Location:	State of Oregon
Agency:	Department of Environmental Quality
Onsite CA:	Yes, as part of compliance assistance visit. Focus: RCRA compliance - primarily assists conditionally exempt small quantity generators that are "small" having < 50 employees.
Model Three. Compliance Assistance Delivered During a Compliance Assistance Visit by Non-Enforcement Personnel	
Name:	CAA Section 507 Small Business Assistance Programs
Location:	All States required to have this program.
Agency:	Responsibility varies; could be in State's environmental agency or other agency(s) such as a State's Department of Economic Development. Thus far, none of the "507" programs operate out of any State's enforcement program.
Onsite CA:	Thirty (30) programs plan to provide this; but smaller programs do not.
Focus:	CAA compliance - assists small businesses in complying with new hazardous air pollution reduction programs referred to as Maximum Achievable Control Technology (MACT) Standards, among other things.

In reviewing this material, the workgroup wanted to understand the "what," the "how," and the "who" of onsite compliance assistance. "What" means the types of assistance offered; "how" means during a compliance monitoring inspection or during a separate compliance assistance visit; and "who" means enforcement personnel or non-enforcement personnel. The workgroup also reviewed the procedures and policies that guide the field work carried out under these programs. This enabled the workgroup to assess the applicability of these models to OECA's new approaches to compliance assurance.

Another purpose in examining these models was to identify whether these types of programs present issues that are affecting or will affect the relations between EPA and these State and local agencies. For example, how would EPA coordinate its approach to onsite compliance assistance where State and local agencies use similar and/or different approaches.

Analysis of the Models

These programs differ not only in the "what," the "how," and the "who," but they also differ in scope (single or multimedia) and whether they assist a full range of "small" businesses or focus on a particular economic sector. Although they use the common criterion "small" sources, the definition of "small" differs among the programs.

Size as a Criterion for Receiving Onsite Compliance Assistance - These State and local programs are designed to assist specific types of sources, the common criterion being "small" businesses. What criteria EPA should use in determining which sources receive onsite compliance assistance is outside the scope of this report. But the workgroup recognizes that such criteria are needed to make any reasonable resource estimates for the three options defined by the workgroup.

Scope of the Onsite Compliance Assistance Program - Also, these programs differ in scope. The Santa Rosa program is multimedia in scope, while the Oregon program is single media in scope. The "507" programs may be either single or multimedia in scope, depending on program organization and management decisions made by each State. What criteria EPA should use to determine the scope of onsite compliance assistance depends on several factors. This type of analysis is outside the scope of this report. However, such criteria are needed to make reasonable resource estimates.

Sector Focus or Regulatory Focus to Compliance Assistance - One program, Santa Rosa, works with a "sector" grouping (vehicle service and repair facilities) and uses a multimedia approach. The other programs assist a wide range of sources subject to a particular set of program regulations and were mostly single-media. (Not all "507 programs are necessarily single-media.) Consideration of these factors is outside the scope of this report, but would impact resource estimates for EPA's compliance assistance program.

The workgroup drew on this analysis in developing those portions of Options A, B, and C that pertain to "what," "how," and "who," but not with regard to the distinctions we developed between Tiers I, II, and III of the compliance assistance continuum. We did not have sufficient information about the nature of the assistance offered under all of the different models that would have allowed them to be characterized in this way.

4.2.3 Issues in Federal/State/Local Relations

Federal Role in Onsite Compliance Assistance - With the development of more compliance assistance programs, either through, or supported by State and local environmental agencies, and the expansion of pollution prevention programs and related programs in the States, the question arises: "To what extent is a Federal role in onsite compliance assistance appropriate and necessary?"

Not all State and local programs offer onsite assistance because of the resources required. Some focus instead on compliance training courses and workshops for groups of facilities and mailings of compliance materials.

Factors that bear on the answer to this question are as follows:

- ! The nature and seriousness of the non-compliance problem;
- ! The scope of the problem: National, Regional, State, and/or local;
- ! The potential for onsite compliance assistance to create environmental benefits or clean up in a cost-effective manner; and
- ! The legal, policy, management, training, resource, and other program factors addressed elsewhere in this report.

In general, the workgroup found through discussions with Regional staff and managers, that some minimal amount of compliance assistance is occurring during compliance monitoring inspections, but that this is not systematic because it is not explicitly defined as part of all compliance monitoring inspectors' jobs, and that not all compliance monitoring inspectors have received relevant materials and training. The workgroup has assumed that, to some degree, a Federal role is appropriate. However, the extent of this role, and which EPA personnel should carry out this role, are the primary questions that the report addresses.

Coordination of EPA, State and Local Approaches - EPA needs to work with the variety of approaches being utilized by State and local agencies, while avoiding conflict and duplication. Issues of coordination depend on which option(s) EPA adopts. These issues also depend on which sources receive onsite assistance from Federal personnel, the scope of that assistance (single or multimedia), and on the degree of compliance assistance (e.g., how far along the continuum of compliance assistance are EPA's field personnel allowed to operate).

To the extent that EPA utilizes a similar approach to those of State and local agencies, with regard to integrating or separating onsite compliance assistance and enforcement, there are likely to be fewer coordination issues and areas of potential conflict. To the extent that EPA's approach differs from that of State and local agencies, there are likely to be more coordination issues and areas of potential conflict.

For example, where a State separates onsite compliance assistance from enforcement (e.g., uses non-enforcement personnel and site visit that is separate from a compliance monitoring inspection), then the following situation is likely to arise. In those States that have created a clear division between enforcement functions and compliance assistance, these two divisions do not pass information across function lines. In this instance, compliance monitoring inspectors report directly to the legal arm of environmental enforcement. These State inspectors will be very reluctant to share either enforcement or compliance information with EPA representatives, if that representative does not respect the division but, instead, shares the information freely between EPA's enforcement personnel and EPA's compliance assistance personnel.

Characterizing Coordination Issues		
State and Local Agency Organization		
	Separate	Integrated
Separated	Fewer coordination issues	More coordination issues
EPA Organization		
Integrated	More coordination issues	Fewer coordination issues

Implementation of any type of onsite assistance program by EPA will require a more detailed assessment of these issues and thorough discussions with State and local agencies.

4.3 Training Field Personnel for New Responsibilities in Compliance Monitoring and Compliance Assistance Introduction

4.3.1 Introduction

The Training Subgroup developed several charts showing the training paths that exist or could be established to develop the different types of personnel with compliance monitoring and/or compliance assistance duties to be performed onsite at a regulated facility. These paths are displayed in detail in three charts found in **Appendix E**.

The training paths were developed at an early stage, prior to the final agreement on the language for Options A, B, and C. Given resource constraints, the subgroup did not update these attachments to correspond exactly to the final options. However, the training paths outlined are still relevant as their correspondence to the options is shown in **Table 4-2**.

Table 4-2. Training Path Correspondence to Options

Option	Appendix E Attachment
Option A: Separate CM from CA	Attachment 1 - Training Paths for Existing CM Inspectors, and Attachment 3 - Training Paths for New CA Field Personnel
Option B: CM + CA Tier I	Attachment 2 - Training Paths for Hybrid Inspector
Option C: CM + CA Tiers I & II	Attachment 2 - Training Paths for Hybrid Inspector

Matching Training Paths and Options A, B and C - Each training chart shows a "path" or chronology of training that leads to an "OUTCOME." An "OUTCOME" means the type of personnel and expertise that will result if an individual follows the "training path" leading to that particular "OUTCOME."

- ! There are many types of field personnel/expertise, e.g., "OUTCOMES," that EPA could develop to meet new program needs.
- ! After an individual completes training and achieves an initial "OUTCOME," the individual can continue to alternative or advanced "OUTCOMES." These alternative or advanced "OUTCOMES" are many and varied, and would be selected based on program needs for different and/or new types of inspection expertise, and new types of compliance assistance expertise.

! Training is cumulative as the individual moves along the training paths from left to right.

For Option A:

! Attachment 1 - Shows the training paths and "OUTCOMES" for EPA's compliance monitoring inspectors under existing training policies for basic training, program-specific training, and training for multimedia screening inspections. This pertains to Option A. Most of this training already exists.

! Attachment 3 - Shows the training paths and "OUTCOMES" that EPA could develop if onsite compliance assistance is provided by EPA field personnel other than compliance monitoring inspectors, such as "compliance assistance specialists" and "compliance assistance generalists." This too pertains to Option A. This training would have to be developed.

For Options B and C:

! Attachment 2 - Shows the training paths and "OUTCOMES" that EPA could develop if CA Tier I and/or II were integrated with or handled by compliance monitoring inspectors. This is the "hybrid" inspector concept. Training paths in this attachment pertain to both Options B and C. While some existing training for inspectors is relevant to these options, training that pertains to specific sectors, industrial processes, and onsite compliance assistance would all need to be developed.

4.4 Estimating Resources for Onsite Compliance Assistance Activities

The workgroup discussed how to estimate resources for the elements of an onsite compliance assistance program. To do this in a valid way requires a number of policy decisions that are outside the scope of this paper. However, some of the factors that will affect resources needed to implement the options outlined above have been identified.

4.4.1 Factors Affecting Resources Estimates

Factors that could affect resources estimates include:

- ! Which sources receive onsite assistance
 - Size criterion
 - Sector criterion
 - Regulatory criterion
 - Risk criteria
 - Non-compliance criteria
 - Equity considerations

- ! Scope of the assistance
 - Single-media
 - Multimedia
 - Regulation specific
 - Sector specific

- ! Level of assistance
 - Tier I
 - Tier II
 - Tier III

- ! Nature of the assistance
 - Voluntary: A voluntary program is one in which the source has the option to decline the assistance.
 - Involuntary: An involuntary program is one in which the assistance is offered as part of an enforceable agreement.

- ! Cost of assistance
 - Free
 - Fee-based

- ! Number of sources affected
 - All sources
 - Sources selected by using criteria above
 - Sources self-selected, if program is voluntary.

Any combination of these factors could potentially affect the size of the universe of sources who seek, or are targeted for, compliance assistance which will affect the amount of resources needed to provide the assistance.

4.4.2 Factors Affecting FTEs Needed/Utilized

Estimating the FTEs needed for effective onsite compliance assistance means estimating the following:

- ! The number and type(s) of EPA personnel needed for field work;
- ! The amount and type of training needed for effective onsite compliance assistance;
- ! Defining the tasks of onsite compliance assistance, e.g., the amount of time spent preparing for and operating in the field and preparing any reports about the field activities, or other follow up work;
- ! Defining the program support activities, e.g.,
 - (a) developing necessary policies, guidance, and standard operating procedures;
 - (b) developing compliance assistance materials to be used in the field or shared with the source; and
 - (c) providing compliance assistance materials to the source.

Of the factors listed above in Section 4.4.1, four are essential to estimating FTEs needed. These include: how many, which sources, and what scope and level of assistance will be provided. These factors, in turn, could affect which EPA personnel are selected to carry out onsite assistance. To the extent that selected personnel have previous training and experience that are directly relevant to the program of onsite assistance, costs of training may be reduced.

4.4.3 Selected Scenarios and Descriptions of Resource Needs

Although quantitative resource estimates are outside the scope of this paper, the following scenarios offer a qualitative way of considering resource needs for Federal onsite assistance.

More Personnel, Training, and Support Needed as Program Moves From Tier I to Tier II:

Before outlining several scenarios, the resources needed to provide onsite assistance in terms of Tiers I, II, and III described in Section 2.2.1 will be commented on. In general, as the program moves from Tier I activities to Tier II activities, the need for training and program support activities increases substantially.

But the unknown factor is the number of field personnel receiving

the training and support. One set of assumptions suggests that Tier I activities would be conducted at more sources than Tier II activities. Therefore, more field personnel would need to be trained and supported at that level than at the next level and so on.

This means that a program emphasizing Tier I activities at many facilities would require the training and supervision of many field personnel, while a program emphasizing Tier II activities at fewer facilities, would require more in-depth training and supervision of fewer field personnel. The cost (FTEs and dollars) of implementing these different programs could actually be similar, regardless of which scenario was employed.

Illustration of Resources Needed for Two Types of Onsite Programs:

The following scenarios are two of many and are for purposes of illustration only. Certain policies and guidance for field operations would have to be developed regardless of which of these scenarios was employed. Therefore, this "overhead" has not been included in the discussion of "program support activities" or "resources needed."

The term "compliance assistance techniques" means the ways of working with the facility to gain owner/operators confidence, ways of educating and sharing information effectively, etc., that are different from compliance monitoring and enforcement methods.

Scenario 1: Tier I Single-Media Assistance to Small Facilities -
A program that provides Tier I single-media onsite compliance assistance to small sources that are having difficulty complying with new regulatory requirements that require technology change would need the following:

- ! Single Media Regulatory Experts - Trained to the depth necessary to understand the compliance issues and needs of a particular type of facility.
- ! Sector-Generalist Training - Trained in general knowledge of different types of sources affected by specific regulations with sufficient knowledge to aid these different sources.
- ! Compliance Assistance Training - Trained in innovative and pollution prevention compliance methods and technologies related to the regulation to be implemented, and applicable to a range of sources. Also trained in compliance assistance techniques.
- ! Program Support Activities - Development of sector specific materials on innovative/pollution prevention methods.
- ! Workload - One field person per facility for four (4)

hours.

Scenario 2: Tier II Multimedia Assistance to Targeted Sector with Medium and Large Facilities - A program that provides Tier II onsite compliance assistance that is multimedia in scope to sectors targeted because of risk and noncompliance history would need the following:

- ! Multimedia Expertise - Trained in each media to the depth necessary to understand the compliance issues and needs of this type of facility.
- ! Sector-Specific Training - Trained in processes, inputs/outputs, waste streams, sources, etc. Depending on the number of product lines, this could entail training in several different processes.
- ! Compliance Assistance Training - Trained in innovative and pollution prevention compliance methods and technologies for this sector and compliance assistance techniques.
- ! Program Support Activities - Development of multimedia sector-specific materials and development of information on innovative/pollution prevention methods applicable to the sector, etc.
- ! Workload - One or more field persons per facility for 1-2 days.

Implementation of any type of onsite assistance program will require an assessment of the resources needed to be effective. The factors identified in this section of the report should be included in that assessment.

5.0 CONCLUSIONS AND RECOMMENDATIONS

As the workgroup considered options for integrating onsite compliance assistance with compliance monitoring inspections, it concluded that, as the options moved along the continuum, the legal risks to EPA's enforcement program increase significantly, the inspector's liability increases, and the training needs and resources to develop requisite expertise to maintain the Agency's credibility increases substantially. The workgroup identified the following items to consider when determining which option to implement:

- ! Expertise - Compliance monitoring inspectors could adequately provide compliance and technical assistance, but this assistance needs to be carefully planned to maximize limited resources.
- ! Training/Investments - The Agency would have to invest significantly in training and document preparation (e.g., policies, manuals, etc.) to adequately prepare compliance monitoring inspectors to perform compliance and technical assistance activities.
- ! Liabilities - Given the potential legal consequences of inappropriate or misinterpreted compliance and/or technical assistance, certain safeguards need to be established to preserve EPA's integrity and legal authority and to minimize liabilities of compliance monitoring inspectors during onsite visits or follow-up activities relating to compliance and technical assistance matters.
- ! Implementation/Phase-In - The framework and activities required to provide compliance and technical assistance should be phased in over time and periodically evaluated to ensure that goals and expectations are being achieved.
- ! Coordination with States/Local Agencies - Compliance and technical assistance must be consistent and in concert with State and local agency compliance activities to assure continuity, minimize confusion on behalf of source owners and operators, and result in effective information sharing.

After weighing the pros and cons of the various options, the workgroup developed the following conclusions and recommendations.

- ! Onsite compliance assistance can be viewed as a continuum from the simple to the more complex. The most technically complex, and site-specific level of onsite assistance, Tier III, is generally not an appropriate EPA inspector activity. Therefore, the workgroup did not address Tier III in any of the options.
- ! Options A, B, and C are appropriate to use in Agency field operations depending on the nature of the compliance problems involved, the type, size, and complexity of the facility, and other factors. However, as the Agency moves from Option A to Option C, legal risks increase.
- ! The use of any of these options depends on the training and expertise of EPA's

field personnel in the techniques and methods of compliance monitoring inspections, and the techniques and methods of onsite compliance assistance.

- ! These options should be viewed as elements in a "tool box" to be utilized as deemed appropriate by Agency compliance managers.
- ! To be most effective, Agency decisions about which option(s) should be implemented to address an environmental problem or non-compliance situation should be made during up-front planning and targeting processes, particularly in the development of sector-based strategies.
- ! Although this report does not address the circumstances under which each option should be utilized, the workgroup has several observations about the applicability of different options to the size and complexity of the facility. Option B may be appropriate for more sophisticated/complex facilities, while Option C may be most appropriate for smaller, less complex facilities.

APPENDIX A
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LIST OF WORKGROUP MEMBERS

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APPENDIX B

TRADITIONAL AND NEW ROLES FOR EPA FIELD PERSONNEL

The Sub-group assigned to "Define Functions of Field Personnel" identified the following as the present role of the compliance monitoring inspector or field person in terms of functions and responsibilities.¹

- ! Official Public Representative - The inspector deals directly with the public, particularly during compliance investigations.
- ! Authorized Representative - The inspectors primary role is as the authorized representative of the Administrator of the U.S. Environmental Protection Agency through presentation of official credentials that provide identity and designate authority to perform duties in accordance with applicable Federal environmental statutes.
- ! Fact-Finder - The inspector assesses whether the facility is in compliance with laws, regulations, and with any relevant environmental permits. The inspector must be skilled in obtaining critical information necessary for EPA to determine compliance or noncompliance.
- ! Enforcement Case Developer - Proper collection and preservation of evidence is vital for the development of enforcement actions.
- ! Enforcement Presence - The inspector's presence casts a wide shadow over regulated facilities, thus deterring managers from violating the environmental requirements.
- ! Project Manager - The inspector may serve as team leader for large, complex, multimedia inspections.
- ! State Coordinator - The inspector may be asked to serve as a coordinator with State programs. Federal inspectors may be required to conduct State file reviews, perform joint inspections with State officials, and provide notification to the State.
- ! Regulatory Technical Educator - Field personnel serve as a source of regulatory information. The inspector provides technical assistance to facility managers by directing them to useful sources of information relevant to problems observed at the facility.
- ! Technical Authority - Field personnel are frequently called upon to help the Agency interpret regulatory requirements, technical data, and assess environmental impacts.
- ! Litigation/Negotiation Support - Field personnel are routinely called upon to assist with case development and/or litigation in areas such as; case support, depositions, testimony, negotiations, and other related activities.

¹Prepared by Mark Lehr, Chemist, Agriculture and Ecosystems Division, OC, Denver, CO. August 23, 1995, Revised November 6, 1995.

APPENDIX C
LEGAL SUBGROUP PAPER

February 16, 1996

MEMORANDUM

SUBJECT: Legal Issues of Blended Roles of Federal Inspector and Compliance Assistance Representative in the Field

FROM: ROI Legal Issues Sub-Workgroup

TO: ROI Workgroup Members

This position paper focusses on some of the potential legal problems which could arise from a "blended role" (e.g., a combination of traditional enforcement inspector, compliance assistance, and technical compliance advisor functions) for the EPA field representative. The assumptions we made were that the same person would be performing all functions onsite, and this would be either at the same time or in a series of "visits." We have reserved the term "inspector" and "inspection" for the traditional regulatory enforcement inspections set forth in the environmental statutes.

The Agency as well as personnel in the field must be aware that, as the field representative expands his or her role, the potential for confusion and subsequent negative impacts on legal enforcement action increases and they must know how to avoid these situations. With that as a given, our conclusion is that, if properly managed, the roles of the inspector, compliance assistance advisor, and technical advisor can be complimentary.

We have not found any problems with pollution prevention advice being given by an enforcement inspector. Currently, pollution prevention advice is appropriately given by all Agency field representatives. We are also assuming that any employee representing the Agency can and must react to any obvious threat to human health and the environment or apparent criminal violations; this goes without debate.

The legal questions of the extent of the Agency's discretion to defer enforcement in the event that violations are discovered in a compliance visit should be referred to OGC.

Issues

Credibility of the Agency

EPA has had a regulatory presence in the field since its inception. To "soften" that role decreases the respect for EPA authority and encourages facilities to try to "cut deals" or influence inspectors at the site. This in turn will put inspectors in situations where they are "serving two masters," enforcement and compliance. There can be conflict unless it is clear which of these is a primary role.

The combined and increased breadth of functions may decrease the achievable degree of inspector specialization and expertise, compared to that of the facility's experts. If this were the case, or perceived by the facility to be the case, any on the spot compliance advice will be considered less "expert" and creditable to that advice which the company has in-house. This could hamper the Agency's ability to advise both legally and for compliance assistance.

Differing Roles: Inspector v. Counseling Functions of a Field Representative

The primary role of the inspector is to gather facts based on observations and samples which can be used as evidence in a legal case. The inspector has a potentially adversarial relationship with the regulated facility. Compliance assistance, on the other hand, functions best in a non-adversarial situation of mutual cooperation. To ask a single person to know the regulations in detail for several media, carry out interviews, and conduct sampling and record observations is a tremendous task in itself. To ask this person to also inspire a trusting relationship with the facility which encourages the facility to accept advice on technical processes would be overwhelming. Compliance assistance programs which carry enforcement actions as a penalty for non-successful participation place the Agency representative in a very difficult position.

Jeopardy of an Enforcement Action

Advice given to facility by a representative of EPA could be raised as a defense to a legal action. EPA personnel could be subpoenaed as witnesses in support of the proposition that they gave assurances or erroneous advice which should be an equitable (if not yet legal) barrier to EPA enforcement against the facility.

Constitutional Problems; Notice and Search and Seizure

The Constitution restricts the Federal government from unreasonable search and seizure by setting boundaries on when, where, and under what circumstances Federal representatives may inspect private and business properties or examine records or other documents. These limitations are set forth in the statutes and inspectors inform the facility of these rights. Compliance assistance visits would be strictly consensual as there is no legal authority given to the Agency to "visit" a facility. Therefore, if a visit were to become an inspection, or evidence of a violation were found during a visit which the Agency sought to use as evidence in an enforcement action, this could be barred under the 4th Amendment.

Under the traditional inspection scenario, Constitutional "notice" requirements are taken care of by the presentation of Agency credentials, identification by the inspector of himself as a regulatory inspector, and full disclosure of the purpose of the inspection. In a visit, this would not necessarily be the case. If a violation were found during a visit, where these formalities had not been undertaken, evidence could be barred in a later enforcement action because there was no official notice. This situation also raises the legal question of whether consent on the part of a facility to a visit could later be interpreted legally as a nonconsensual search if the facility wanted to have evidence found during the visit suppressed.

Conversely, if full legal notice was given before a compliance assistance visit, would this put the whole transaction on such an adversarial footing that the assistance would be ignored or the visit viewed by the facility as a trap?

Conflict With State Counterparts

Many States have a clear division between enforcement functions and compliance counseling in order to avoid the legal problems and barriers to enforcement actions. In some instances, these two divisions do not pass information across function lines. The inspectors report directly to the legal arm of environmental enforcement while compliance assistance representatives do not report to the enforcement side except for criminal activities. In some States, the enforcement side will report borderline violations to the assistance representatives. These State inspectors will be very reluctant to share either enforcement or compliance information with the EPA representatives who will not respect the division, but, rather, share information freely between the two offices within EPA.

Agency Representatives May Have a Legal Responsibility to Report Violations, and the Agency May Have a Legal Responsibility to Take an Enforcement Action

Not all of the Administrator's enforcement responsibilities are discretionary. Most of the environmental statutes have provisions for citizens' suits where the Agency is not diligently prosecuting violations of the statutes. They also contain provisions for suits against the Administrator for not performing non-discretionary duties. To place field representatives in a position where they observe violations of the regulations and do not report it or do not take any enforcement action may leave the Administrator open to citizen's suits. The tension between the "duties" of a field agent in these situations could be difficult to overcome if the Agency were sued. On the other hand, to have a field agent assure that prosecution would not be forthcoming and then have the facility open to a citizen's suit would have a chilling effect on cooperation with the Agency on the part of the facility.

Technical Assistance Barriers to Dual Function

In some instances, technical assistance requires specific licensing and credentials, licensed professional engineer, architect, etc. If an Agency representative with less "credentials" were to give advice, it may open an EPA representative to at least censure, at most, personal or professional liability. There are also safety concerns with certain facilities that a generalist or person unfamiliar with technical processes may not understand. In these instances, inappropriate recommendations could result in unsafe situations.

Resources for Enforcement Should be Preserved

Diversion of enforcement resources into compliance assistance projects will decrease enforcement efforts. Use of information gathered by compliance assistance in enforcement actions may also cause a drain of enforcement case support resources, because of the legal challenges available under this new plan of dual purpose site visits. Because compliance assurance and inspections at large facilities will be the most likely to generate the situation where advice will be given and violations uncovered, the result may be complex litigation which is resource intensive.

Confidentiality

TSCA and FIFRA have confidentiality safeguards built into the inspection process (CBI). Inspectors must be certified to receive confidential business information which is handled according to formal internal agency procedures. Failure to regard this confidentiality is punishable by fine. These liabilities apply to all who have access to CBI material.

Criminal Enforcement

Civil investigators are expected to return information of possible criminal behavior observed in the field to the criminal agents for further development. If assurance of non prosecution are given at the opening of a site visit, it could affect later criminal case development. This could also be raised as a defense to an Agency criminal action. The Criminal office came out very strongly against the suggestion that inspectors offer technical assistance (Memo 2/29/94).

Personal Liability of Agency Representatives

If erroneous technical advice is given, the Agency representative may be open to personal suits for economic damage to the facilities or suits for co-payment of any liability incurred in detrimental reliance upon his advice. This is laid out under the Federal Tort Claims Act.

State Problems

Logistical Problems with States Which Separate Functions

Because some states have separated the technical assistance and enforcement functions, and often do not allow the transfer of information across these functional lines, it will be difficult for them to participate in an EPA "blended" site visit. Likewise, it may be the case that a "blended" inspector is not welcome on a State "focussed" site visit even if the EPA representative maintains a "limited" role.

Confidentiality

Field representatives and inspectors would have access to legal and non-legal information. If States have rules of confidentiality between legal and technical offices, they would be reluctant to share this information with EPA and will likewise be reluctant to use information EPA gathers in contradiction to the State policy.

APPENDIX D

FEDERAL, STATE, AND LOCAL MODELS PAPER

INFORMAL POLL REGARDING STATE COMPLIANCE ASSISTANCE PROGRAMS

STATE EXAMPLES OF NEW ROLES FOR FIELD PERSONNEL²

Role I. Compliance Assistance

Inspector or other Agency staff provides information on existing regulatory requirements, forthcoming regulatory requirements, and sources of additional technical or other advice. Advice may be given in the form of a compliance evaluation or determination of regulatory status (e.g., need for a permit). Information may be delivered during workshops, training seminars, other outreach type activities, or during onsite visits.

Model One: Compliance Assistance Delivered as Part of the Inspection by Inspectors

The Santa Rosa Compliance Incentives Program

An interesting example of a local government implementing elements of the new approach to environmental compliance is the Compliance Incentives Program of the City of Santa Rosa and Sonoma County, California. The program was initiated to make it simpler and more rewarding for small businesses (particularly the vehicle service industry) to comply with environmental regulations.

The program followed a 1-year investigation of high levels of noxious fumes in a sewer trunk line serving an area in which many auto dealers and repair shops are located. Auto shop owners felt that regulations from the eight county organizations responsible for environmental compliance were unclear and conflicting. There was little communication between regulatory agencies and information on how to comply with all requirements was not readily accessible. Shop owners were increasingly frustrated by the regulator's use of penalties, but no guidance, to achieve compliance.

The Compliance Incentives Program utilizes a combination of technical assistance, multimedia regulatory streamlining, public recognition, and enforcement action as tools to achieve compliance. The eight county agencies with responsibility for environmental protection formed an interagency group that developed a streamlined multimedia inspection checklist. When a business signs up for the program, they receive an information kit which provides best environmental management practices for auto service and repair shops, a self-inspection checklist for all environmental requirements, and a vendor list for equipment and services that could help the facility comply. Participating shops are inspected by personnel of one of the agencies with environmental responsibilities, and these personnel are trained to conduct multimedia inspections. On the initial inspection, violations are identified and businesses are offered guidance about how to comply. If the follow-up inspection finds them in compliance, they are awarded a Sonoma Green Business sticker. The program is publicized by the county so that consumers are made aware of which facilities are in

² Roles not focused on here include pollution prevention and multimedia. The workgroup assumes that inspectors, regardless of the activity that they are undertaking, are working to integrate p2 into their work at least to the extent that they identify p2 opportunities and refer facilities to additional sources of information. With regard to multimedia, the workgroup assumes that sector-based materials and compliance assistance materials will be multimedia, wherever possible. The workgroup is not addressing the issues of where to target multimedia inspections since that issue has been discussed under the auspices of the Office of Regulatory Enforcement's multimedia division.

compliance and are encouraged to do business with those facilities.

Before the program was initiated, inspections found no auto shops in full compliance with environmental requirements. Since the program began, over 100 shops have requested voluntary inspections. Of these, only 3 percent were found to be in compliance on the first inspection, but this increased to 70 percent on the follow-up inspection. To date, 67 shops have received a recognition sticker, and 21 shops are pending recognition. This indicates that 32 percent of all shops that discharge to the local sewerage system are in full compliance. Since the program was first implemented, 25 shops have been re-inspected after being in the program for 1 year, with 23 being found to have remained in full compliance.

There have also been direct savings to the participating regulatory agencies. The multi-agency savings from the 23 shops that were re-inspected through multimedia coordinated inspections were \$9,654 in reduced inspector time and paperwork costs, and \$6,482 in reduced sampling costs.

In addition, a customer satisfaction survey showed that auto shops were 100 percent satisfied with the program. Twelve percent of these shops said that they would be willing to pay increased permit fees to maintain the program.

Model Two: Compliance Assistance Delivered During a Compliance Assistance Visit by Inspector Staff (sometimes referred to as the Grey-Hat Model)

The State of Oregon's Hazardous Waste Outreach Program

Although RCRA does not require States to establish compliance assistance programs for small quantity generators of hazardous wastes, many States have taken it upon themselves to establish such programs and, in some cases, are required to do so by State statute. Under a 1991 Oregon law, the Oregon Department of Environmental Quality (DEQ) is required to provide a technical assistance program, including direct, onsite assistance, for "generators of hazardous waste who are or are likely to be classified as conditionally exempt generators." (ORG 466.068).

To fulfill this mandate, DEQ has developed a compliance assistance program for conditionally-exempt generators (CEGs) of hazardous wastes and for other generators with fewer than 50 employees. The DEQ provides two different types of compliance assistance: comprehensive onsite assistance to a smaller number of facilities, and more limited compliance assistance to a wide range of facilities. The DEQ soon realized that the key to delivering compliance assistance through a regulatory agency is to develop a series of "ground rules" that are communicated to the small business prior to the visit. The approach that they devised is termed the "grey hat model" and is formalized in an Hazardous Waste Field Activities Handbook.

The Grey-Hat Model - The term "grey hat" stems from the fact that in Oregon field personnel are expected to conduct both compliance assistance and compliance enforcement

activities. As necessary, Oregon has established principles, guidelines, and ground rules for how this can occur. Of note, is their creation of an "enforcement response" policy that reflects the provision of compliance assistance.

Oregon's compliance assistance program is available to small businesses (fewer than 50 employees) that are classified as CEGs. However, small businesses that are classified as small or large quantity generators (SQGs, LQGs) are also eligible. Technical Assistance (TA) is provided only on request.

1. Facility requests a compliance TA visit.
2. If the facility is scheduled for an inspection, the inspection can be delayed until after the TA visit, unless DEQ feels that the inspection should proceed because the facility has a history of noncompliance, or other factors make the inspection necessary (e.g. citizen complaints).
3. Field staff must send a letter to the facility describing the ground rules for the compliance TA visit.
4. Field staff prepare for a TA visit as they would for an inspection. They must be fully aware of all regulations that might apply to the facility and review facility files and records.
5. During the facility walk-through, if a "clear and immediate danger" that can not be immediately resolved is encountered, field staff must document it, and inform the owner/operator that TA is suspended.
6. During the closing-conference, the field staff will review the potential areas of noncompliance and give initial direction on how to rectify them. At the same time, the field staff and facility will negotiate a schedule for responding to the potential areas of noncompliance.
7. The facility is then given a compliance TA report, or Environmental Management Assessment (EMA) that is similar to a NON in terms of content, but differs in tone. It includes the list of potential areas of noncompliance, required actions to correct them, and a recommended schedule for response and compliance.
8. Areas of noncompliance that represent "clear and immediate dangers" may lead to an inspection. Potential areas of noncompliance that do not represent "clear and immediate dangers" will not be referred to inspectors. Instead, they will be corrected within a time frame, or "response period," that is mutually agreeable to DEQ and the facility.
9. At the end of the "response period", the facility must notify DEQ in writing that it has implemented all of the required actions, or explain why it has not done so. Failure to comply may lead to an inspection.
10. Field staff follow up to respond to any unanswered questions and to check on the progress of required responses to areas of noncompliance.

B. Important Elements of the Ground Rules

Although most of the elements of the ground rules have been described above, it is important to note that before offering compliance assistance, DEQ makes facilities aware that:

1. If a "clear and immediate danger" is observed, DEQ will suspend compliance TA and may initiate a compliance action.
2. It will receive written documentation of all potential areas of noncompliance observed.
3. It must agree on a schedule ("response period") for rectifying any potential areas of noncompliance observed and that, at the end of the period, DEQ will ask the facility to certify in writing that the potential areas of noncompliance have been rectified or why they have not.
4. Requesting TA does not increase or decrease the potential to be inspected. An inspection can occur at any time. If a facility is scheduled for an inspection at the time TA is requested, DEQ may postpone the inspection. Facilities with poor records of compliance are less likely to have an inspection postponed. If a compliant is received prior to a facility requesting TA, DEQ will use its discretion to determine whether an inspection or TA is offered.
5. If the facility is inspected after the TA visit but prior to the end of the response period, DEQ will not cite any of the violations documented during the TA visit.
6. Violations documented during compliance TA site visits are not represented to be exhaustive by DEQ. The facility remains responsible for complying with all applicable requirements.

Model Three: Compliance Assistance Delivered During a Compliance Assistance Visit by Non-Enforcement Personnel

The Clean Air Act 507 Small Business Assistance Programs

The 1990 CAA amendments established new regulatory requirements for small business. For example, the 1990 amendments created a hazardous air pollution reduction program, commonly referred to as Maximum Achievable Control Technology Standards (MACT), that will require businesses that release more than 10 tons of a given hazardous air pollutant or 25 tons of a combination of hazardous air pollutants to reduce the emissions of these pollutants. Typical small business that may be covered by these new regulations include: agricultural chemical applicators, asphalt manufacturers, asphalt applicators, auto body shops, bakeries, distilleries, dry cleaners, foundries, furniture manufacturers, furniture

repairs, gasoline service stations, general contractors, hospitals, laboratories, lawnmower repair shops, lumber mills, metal finishers, newspapers, pest control operators, photo finishing laboratories, printing shops, refrigerator/air conditioning service and repair, tar paving applicators, textile mills, and wood finishers.

Obviously, these requirements are substantial in order to help small business comply, Section 507 of the 1990 CAA amendments requires States to establish compliance assistance programs to help small businesses comply with the new requirements. In order to be eligible to receive assistance from one of these compliance assistance programs, a business must:

- “ - be owned or operated by a person that employs 100 or fewer individuals;
- be a small business concern as defined by the Small Business Act;³
- not be a major stationary source as defined by the CAA;
- not emit 50 tons or more per year of any regulated pollutant; and
- emit less than 75 tons per year of all regulated pollutants.”

The State small business assistance programs, as required by the CAA, are required to have the following program elements:

- ! Development, collection, and coordination of information on compliance methods and technologies for small business stationary sources.
- ! Assistance to small business stationary sources on methods of pollution prevention and accidental release prevention and detection, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution.
- ! Designation of a State office to serve as an Ombudsman for small business in implementing the requirements of the Act.
- ! Establishment of a small business stationary source compliance assistance program for determining applicable requirements and permit issuance.
- ! Adequate mechanisms for notifying small business stationary sources on a timely basis of their rights under the Act.
- ! Adequate mechanisms for informing small business stationary sources of their obligations under the Act, including a program for referring sources to qualified auditors, or for the State to provide for audits of the operations of such sources to determine compliance with this Act.

³ The Small Business Act defines a small business as any business which is independently owned and operated and not dominant in its field as defined by Small Business Administration (SBA) regulations under section 3 of the Small Business Act. The definitions for a small business under SBA regulations can be found in 13 CFR Part 121 and are listed by Standard Industrial Code (SIC) categories.

- ! Expedited procedures to respond to requests from small business stationary sources for modifications of any work practice or technical method of compliance, or schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirements of the Act including the requirements of the State Implementation Plans.

- ! Creation of a Compliance Advisory Panel.

Each State now has a 507 program. Since the program requires an Ombudsman and a technical assistance program, in many States compliance assistance staff are located in more than one agency or in different parts of the agency. For example, in some States the Ombudsman role is in the Department of Economic Development while the technical assistance component is in the regulatory agency. In addition, since the 507 programs are required to provide pollution prevention information, many are working cooperatively with the State pollution prevention programs. In a few cases, the pollution prevention program has taken on the compliance assistance responsibility as well.

Currently there are no cases in which any portion of the 507 program is run out of the State enforcement program. Therefore, staff are not enforcement resources. Funding for the 507 program comes directly from air permit fees, as mandated by statute. Further, a recent survey of these programs showed that about 30 were planning on providing onsite assistance. Many of the smaller programs are not able to provide onsite assistance and restrict their compliance assistance activities to workshops and general outreach. Also, about half of the programs offer services to their businesses and promise confidentiality and another half offer a correction period. In some cases, the businesses are offered confidentiality in the beginning and then may opt for a correction period and thereby give up the confidentiality protection.

Role II. Sector-Based Inspections

The inspector develops an industry-specific expertise and inspects one particular type of industry. The inspector is able to provide facilities with additional compliance assistance because he/she has developed a better understanding of the industry and learns from practices observed at other facilities. The Agency is also able to assess common compliance problems within the industry sector and develop appropriate compliance assistance tools targeted at these problems.

State of Washington's Sector-Based Inspections

The State of Washington's enforcement program has an Industrial Section that contains enforcement personnel with sector-specific expertise. The Industrial Section is small with a staff of only 15 people, as compared to a total enforcement staff of 500. The staff has sector specific knowledge of aluminum smelters, pulp mills, and oil refineries. Individual staff members focus all of their activities on one of these three industrial sectors. The sectors were established by legislation that specified that the department would have expertise in these

three industries. All of the inspectors are professional engineers. They do not do separate technical assistance visits or compliance assistance visits. However, they do provide both technical and compliance information during inspections. The turnover of inspectors in this Section is the lowest in the enforcement program. Most of the staff have been in the Industrial Section for 5 to 10 years.

One issue that has resulted from this arrangement is that the inspectors know these industries very well, and as a result, there is a challenge for the staff to use the "black hat" when necessary.

NEIC Multimedia Process-Based Inspections

Within EPA, our National Enforcement Investigations Center (NEIC) also has developed a sector expertise in a few areas. For example, over the past few years NEIC has conducted numerous multimedia inspections at petroleum refineries. These inspections can take up to two weeks and, therefore, allow the inspectors to develop a good understanding of individual facilities. Since these inspections are process-based, the inspectors have also developed a good understanding of the refining process. NEIC is planning to use the information that they have learned about common compliance problems at refineries to send back out to the regulated community as a form of compliance assistance.

Role III. Environmental Management Systems Assessments

In addition to compliance evaluations, there is an ever increasing recognition that environmental management systems assessments (EMAs) are useful in determining the environmental picture of a facility. EMAs focus on identifying and addressing the underlying causes of non-compliance. EMAs look at a facility in terms of organization, structure, environmental commitment, formality of environmental programs, internal and external communication, staff resources, training and development, etc. Agencies are beginning to conduct these assessments as complements to compliance evaluations.

Federal Facilities Environmental Management Reviews

As is explained in the Federal Facilities Compliance Strategy, the National and Regional Federal Facilities Program has operated under the ". . . dual responsibilities of providing technical assistance and advice to Federal Facilities to help ensure their compliance, as required under Presidential Executive Order 12088, and of taking enforcement actions against Federal Facilities . . ." For the past 6 years, the Federal Facilities Program in Region I has provided technical assistance in the form of Federal Facility conferences, regular information mailings, speaking engagements, training, and Environmental Management Reviews (EMRs).

The multimedia Federal Facility staff in EPA Region I conduct the EMR reviews. The purpose of the EMR is to informally meet with the environmental program staff, tour the facility, and discuss overall environmental management issues and compliance concerns the facility may have. The EMR normally takes one day after which time the EPA staff prepares a short report.

Prior to the EMR visit, EPA states clearly that the visit is not an inspection; however, if significant/emergency situations are observed, the situation is reported to Regional enforcement staff. The date of the EMR is arranged with and at the convenience of the facility environmental staff, and an EMR check list is provided prior to the visit.

INFORMAL POLL REGARDING STATE CA PROGRAMS

In response to an inquiry by Deputy Director Connie Musgrove, the Regional representatives of the Multimedia Enforcement Division polled the Regions, asking what States separated the enforcement inspection function from compliance assistance. The unofficial results (13 States are not included) showed that the majority (75 percent) of the States covered divide these functions between separate offices with separate staff. However, indications are that this "philosophy" is changing. This is demonstrated by referrals from enforcement offices to the compliance assistance offices. Pollution prevention functions and technical assistance are often contracted out to State universities or placed in offices other than environmental offices.

Region I

Pollution Prevention is seen as a compliance assistance program. In all of the Region I States, except Massachusetts, enforcement inspections and actions are separate from compliance assistance. In Massachusetts, the program known as "FIRST" combines compliance assistance and enforcement roles and visits. Reports to the Region indicate that the inspectors are uncomfortable with the dual role, and the experiment has generally been seen as a mistake. Once compliance assistance has been offered, inspectors are very reluctant to move to an enforcement role. The first act of the new environmental commissioner was to separate the staff back into compliance assistance and enforcement.

In Maine, New Hampshire, and Rhode Island, pollution prevention and technical assistance are offered by university interns. In Vermont, this assistance is offered by retired engineers. Maine is evaluating a combined role because of decreasing resources.

in reviewing this year's MOA, Region I has set up a program called the New England Environmental Assistance Team (NEEAT). This is a compliance assistance "group" drawn from all offices within the Region. This group is to be kept "explicitly" separate from any enforcement personnel.

Region II

New York has virtually no enforcement, therefore site visits are essentially for offering compliance assistance only. Amnesty is offered for participation in small business compliance programs for air. New Jersey has separate enforcement and compliance roles.

Region III

Pennsylvania has structural separation of enforcement and compliance assistance. Maryland also has a separate structure, but are "philosophically" moving to a blended presence. West Virginia is emphatically separate, in both offices and functions. Virginia separates enforcement and compliance assistance.

Region IV

Tennessee has separate departments with a letter of agreement between offices for the UST program.

Region V

Ohio blends enforcement and compliance assistance. Minnesota only does enforcement for the CAA with separate offices for RCRA compliance and enforcement. Illinois has separate enforcement and compliance assistance. Indiana has enforcement only for RCRA and separate compliance and enforcement for the CAA. Michigan separates enforcement for RCRA and Wisconsin separates functions for RCRA.

Region VI

All Regional inspectors provide compliance assistance as part of enforcement visits. Pollution prevention is separate in all States, and is often not in DEQ since it is technical. Oklahoma has a separate program, in Consumer Assistance, which has statutorily imposed confidentiality. Louisiana receives referrals from enforcement for small business compliance program from the University of New Orleans. Texas has the Office of Pollution Prevention (80 people) which is separate from enforcement. This is in response to a legislated mandate to reduce emissions. Small business assistance is provided in air. Arkansas has separate offices, and New Mexico has three agencies with traditional enforcement in DEQ.

Region VII

All four states have structurally separate enforcement and compliance assistance offices.

Region VIII

Colorado does "blended" inspections for CAA and RCRA, with separate visits, but often by the same persons. Montana has "renaissance" inspectors. South Dakota blends roles for air and has renaissance RCRA inspectors. Wyoming and Utah do blended visits.

Region IX

The few people left in the Region that are classified as "inspectors" spend their time identifying violators and then assisting in case development. These inspectors do not provide any compliance assistance.

The trend is in the opposite direction at the State and local levels. They are getting more and more into compliance assistance. There is no quantitative information on how far along this trend is, but it is pretty far, apparently.

Facility owners appear to be having a hard time warming up to staff who do compliance assistance one day and compliance inspections the next. To address this, a variety of strategies are being employed. For example, compliance assistance staff and compliance inspector staff reportedly wear different uniforms. Also, compliance assistance is physically located in an university setting in one instance. This apparently is (or may be) leading to a trend to split the functions between the different staff.

California has separate offices that coordinate to make sure audits are not enforcement targets. Referrals are received from enforcement inspections. Coordinated site visits are conducted for the Sonoma County Green Business Compliance Incentive Program. Some grace periods from enforcement are given. Nevada has an integrated, confidential, small business compliance assistance program. Washington has separate programs with coordinated compliance assistance for "shop sweeps" where enforcement agreed to defer for one year against participants. Oregon has separate offices which coordinate with enforcement to avoid overlapping with inspections in small business technical assistance program. Statutorily mandated that technical lead not feed into enforcement. The staff may have interchangeable compliance and inspection roles and make it clear which one exists for each visit.

Region X

All States do traditional enforcement inspections with one group. Another group does compliance assistance, but they do not have the same people do both.

APPENDIX E
TRAINING CHARTS

TRAINING FIELD PERSONNEL FOR NEW RESPONSIBILITIES IN COMPLIANCE MONITORING AND COMPLIANCE ASSISTANCE

E.1 Introduction

The Training Subgroup developed several tables showing the training paths that exist or could be established to develop the different types of personnel (shown as OUTCOMES in this analysis) with compliance monitoring and/or compliance assistance duties to be performed onsite at a regulated facility. These paths are displayed in three attachments that are summarized below.

Option	Appendix E Attachment(s)
Option A: Separate CM from CA	Attachment 1 - Training Paths for Existing CM Inspectors, and Attachment 3 - Training Paths for New CA Field Personnel
Option B: CM + CA Tier I	Attachment 2 - Training Paths for Hybrid Inspector
Option C: CM + CA Tiers I & II	Attachment 2 - Training Paths for Hybrid Inspector

E.2 Matching Training Paths and Options A, B, and C

Each training chart shows a "path" or chronology of training that leads to an "OUTCOME." "OUTCOME" means the type of personnel and expertise that will result if an individual follows the "training path" leading to that particular "OUTCOME."

- ! There are many types of field personnel/expertise, e.g., "OUTCOMES," that EPA could develop to meet new program needs.
- ! After an individual completes training and achieves an initial "OUTCOME," the individual can continue to alternative or advanced "OUTCOMES." These alternative or advanced "OUTCOMES" are many and varied, and would be selected based on program needs for different and/or new types of inspection expertise, and new types of compliance assistance expertise.
- ! Training is cumulative as the individual moves along the training paths from left to right.

For Option A:

- ! Attachment 1 - Shows the training paths and "OUTCOMES" for EPA's compliance monitoring inspectors under existing training policies for basic training, program-specific training, and training for multimedia screening inspections. This pertains to Option A. Most of this training already exists.

- ! Attachment 3 - Shows the training paths and "OUTCOMES" that EPA could develop if onsite compliance assistance is provided by EPA field personnel other than compliance monitoring inspectors, such as "compliance assistance specialists" and "compliance assistance generalists." This too pertains to Option A. This training would have to be developed.

For Options B and C:

- ! Attachment 2 - Shows the training paths and "OUTCOMES" that EPA could develop if CA Tier I and/or II were integrated with or handled by compliance monitoring inspectors. This is the "hybrid" inspector concept. Training paths in this attachment pertain to both Options B and C. While some existing training for inspectors is relevant to these options, training that pertains to specific sectors, industrial processes, and onsite compliance assistance would all need to be developed.

E.3 Using the Training Charts

Reading from left to right, each row on the attachment shows a "path" or chronology of training that leads to an "OUTCOME." The column entitled, "OUTCOMES," shows the type of personnel and expertise that will result if an individual follows the "training path" leading to that particular "OUTCOME." Further to the right is a second column of "OUTCOMES," that can be achieved depending on the type of additional training that an individual pursues.

One way to use these charts is as follows;

- ! Find the chart that relates to Option A, B, or C;
- ! Find the "OUTCOMES" column [either the 'initial', or the later 'alternative/advanced' "OUTCOMES"];
- ! Review the column from top to bottom;
- ! Select the type of personnel and expertise that your program needs; and then
- ! Read the training path that leads to that "OUTCOME."

E.3.1 Attachment 1: Training Path(s) to Desired Outcome - Existing

Existing Situation with Inspector Training

Attachment I shows the training paths necessary to develop compliance monitoring inspection expertise in "new" and "existing" compliance inspectors based on policies such as EPA Order 3500.1, "Inspector Training and Development" (DA signed 6/88), and the policy on multimedia screening as part of single-media inspections (Memorandum, S. Herman, 8/2/93), etc.

These existing training paths pertain to Option A, under which compliance monitoring is completely separated from compliance assistance, and EPA would train inspectors only in compliance monitoring expertise.

The table below summarizes, in the "OUTCOMES" column(s), the different types of compliance inspectors that EPA develops under existing training policies for single-media and multimedia inspection expertise.¹

Although program-specific training has been in place for several years and must be updated as programs change, OECA and the Regions are still developing and expanding training related to multimedia screening inspections, and being a leader of, or a member of, a multimedia inspection team.

SUMMARY OF OUTCOMES

"OUTCOMES"	ADVANCE TO	"OUTCOMES"
Lead Inspector with 1st Program	!	Program Expert/Lead Inspector with 1st Program
Lead Inspector with 2nd Program	+ !	Program Expert/Lead Inspector with 2nd Program
	+ !	MMSI with Program Inspector
	+ !	Leader MMI Team
	OR !	Member MMI Team

¹ Derived from Attachment 1. TRAINING PATH(S) TO DESIRED OUTCOME - Existing. MMSI = Multimedia Screening Inspection, and MMI = Multimedia Inspection.

E.3.2 Attachment 3: Training Path to Desired Outcome - Compliance Assistance Only

Compliance Assistance Only

Attachment 3 shows the training paths to develop EPA field personnel with expertise in onsite compliance assistance only, either single or multimedia.² The "OUTCOMES" summarized below are based on a policy of completely separating compliance assistance from compliance monitoring in the field. This is the corollary of Attachment 1, and these training paths and "OUTCOMES" pertain to Option A in the body of the report.

The column entitled, "USE" on Attachment 3 includes suggestions on how compliance assistance personnel could be deployed depending on the size of the facility. The suggested "USES" distinguish between "facilities > 100 employees" and "facilities < 100 employee."

SUMMARY OF OUTCOMES

"OUTCOMES"	ADVANCE TO	"OUTCOMES"
Lead CA Specialist for 1 Program	!	Lead CA Specialist for Sector w/one Program
	+ !	Leader MM CA Team
	OR !	Member MM CA Team
	OR !	Generalist MM CA "Specialist"

E.3.3 Attachment 2: Training Path(s) to Desired Outcome - New Role for Field Person: Blend CM & CA

New Directions in Compliance Assurance

Attachment 2 shows the possible training paths to develop both new compliance monitoring inspection expertise and new compliance assistance expertise to meet new program needs. In this table, the training paths for "new" inspectors are distinguished from the training paths for "experienced" inspectors. These training paths pertain to Options B and C in the body of the report.

² Derived from Attachment 2. TRAINING PATH(S) TO DESIRED OUTCOME - Compliance Assistance Only. MM = Multimedia, and CA = Compliance Assistance.

The "OUTCOMES" summarized below are based on integrating or blending some level of training in onsite compliance assistance with training in compliance monitoring. This means that compliance monitoring inspectors are prepared to do both compliance assistance and compliance monitoring. Thus, creating a "hybrid inspector."

SUMMARY OF OUTCOMES

"OUTCOMES"	ADVANCE TO	"OUTCOMES"
"New Inspectors"		
New Hybrid Lead Inspector W/1st Program Inspector w/1st Program	!	New Hybrid Program Expert/Lead
"Experienced " Inspectors		
New Hybrid Lead Inspector w/1st Program	!	Sector Specialist for CM/CA w/one Program
	+ !	MMSI w/Program Inspector
	+ !	Leader MMI Team
	+ !	Member MMI Team
	+ !	Generalist MM Inspector for CM/CA

Although the intention of these training paths is to develop "hybrid" inspectors, this does not mean that the inspector necessarily performs both of these functions during a single compliance monitoring inspection or site visit. How these personnel are deployed is a separate program policy/management decision that is addressed in the discussion of options in the body of the report.

**Attachment 1
TRAINING¹ PATH TO DESIRED OUTCOME - Existing**

New/Existing Inspectors ³ : Ref.		Outcome						Outcome								
H & S ² Training	+	Basic Inspector Course	+	Program Specific Minimum Training	=	Lead ⁶ Inspector For 1 Program	+	Program Specific Advanced Training		=	Program Expert/ Lead Inspector	EPA Order 3500.1				
			+	Program Specific Minimum Training 2nd Program	=	Lead ⁶ Inspector For 2nd Program	+	Program Specific Advanced Training			=	Program Expert/ Lead Inspector for 2nd Program	EPA Order 3500.1			
Notes: 1. Training = self study, classroom and/or OJT. 2. Annual health & safety (H&S) refresher training & medical monitoring required per EPA Orders 1440.2 & 3. 3. EPA Order 3500.1 provides exception provision for experienced Inspectors. Training also required for first line supervisor. 4. MMSI - Multimedia Screening Inspection. 5. MMI - Multimedia Inspection. 6. The number of program paths may be as many as 15-20.							+	Multimedia Screening Inspection Training		=	MMSI ⁴ with Program Inspection	8/2/93 Steve Herman Memo				
							+	Experience as Lead Inspector for 2 or more programs	+	MMI ⁵ Training Course	+	People Skills with emphasis on Leadership Training	=	MMI Team Leader	6/5/91 MMI definitions & training ESD/NEIC FBC's	
	+	Experience as Lead Inspector for 1 or more programs	+	MMI Training Course	+	People Skills Training	=	Member MMI Team	9/3/94 MMI Lessons Learned, Roles and Responsi- bilities & Training needs Region 5							

Attachment 2
TRAINING¹ PATH TO DESIRED OUTCOME - New Role for EPA Field Person - Blend or CM

New Inspectors ³ :				Outcome				Outcome				Use		
H & S Training ²	+	N&I Basic Inspector Course	+	N&I Program Specific Minimum Training for 1 program	=	New Hybrid Lead Inspector For 1 specific Program	+	N&I Program Specific Advanced Training		=	Program Expert/ Lead Inspector			
Existing Lead Inspectors:														
Notes: 1. Training = self study, classroom and/or OJT. 2. Annual health & safety (H&S) refresher training & medical monitoring required per EPA Orders 1440.2 & 3. 3. EPA Order 3500.1 provides exception provision for experienced Inspectors. Training also required for first line supervisor. 4. MMI - Multimedia Inspection. 5. CA - Compliance Assistance. 6. Typically, facilities with less than 100 employees (about 98% of the universe), have either no or only a part-time environmental person, and would likely be overwhelmed/feel threatened by a team visit.														
				+	Sector Process & Program Practices Course	+	Sector OJT				=	Sector Specialist for CM/CA for specific program		
				+	Multimedia Screening Inspection Training						=	Multimedia Screening inspector (with program inspection)		
				+	Experience as Lead Inspector for 2 or more programs	+	MMI Training Course	+	People Skills with emphasis on Leadership Training			=	MMI Team Leader	Facilities > 100 employees
				+	Experience as Lead Inspector for 1 or more programs	+	MMI Training Course	+	People Skills Training			=	Member MMI Team	Facilities < 100 employees (Oklahoma Model)

Attachment 3
TRAINING PATH TO DESIRED OUTCOME - New Role for EPA Field Person - CA Only

Outcome										Outcome		Use			
H & S Training	+	Fundamentals of CA Course	+	Program Specific Minimum CA Training	=	Lead CA Specialist For 1 Program	+	Sector Process & Program Practices Training	+	Sector OJT		=	Lead CA Specialist for a Sector for 1 program		
							+	Experience as Lead CA Specialist for 2 or more programs	+	MM CA Course	+	People Skills with emphasis on Leadership Training	=	Team Leader for MM CA	Facilities >100 employees
							+	Experience as Lead CA Specialist for 1 program	+	MM CA course	+	People Skills Training	=	Member MM CA Team	Facilities >100 employees
							+	Generalist Multimedia CA Course	+	Multi-media CA OJT			=	Generalist Multimedia CA Specialist	Facilities <100 employees

APPENDIX F
LIST OF REFERENCES

REFERENCES

- Barclay, Rebecca A. **Maintaining the Enforcement Infrastructure; Inspector Profile (1987-1992) and Evaluation of EPA Order 3500 1**. USEPA, Office of Enforcement. February 28, 1994.
- Barclay, Rebecca A. **State Examples of New Roles for Field Personnel**. August 18, 1995.
- Barrette, Michael D. Excerpts from **Design and Implementation of Multimedia and Sector Strategies; Considerations for Environmental Offices Seeking Change**. USEPA, Office of Compliance.
- Callahan, Joanne. **Analysis of Legal Issues Raised by Conjoint Inspector Roles**. Draft memorandum. August 9, 1995.
- Harris, Marged. **Separate Roles of Inspector and Field Representative**. August 8, 1995.
- Kramer, Robert. **Role of the Inspector-Compliance Assistance**. Memorandum. July 11, 1995.
- Kramer, Robert. **Role of the Renaissance Inspector**. Memorandum. July 17, 1995.
- Lehr, Mark. **Traditional Role of Field Personnel**. USEPA, Office of Compliance. August 23, 1995. Revised November 6, 1995.
- Maslany, Thomas. Hanson, Glenn. and Dombrowski, John. **Definition of Compliance Assistance; A Continuum Including Technical Assistance**. USEPA, Region III and Office of Compliance. Revised November 6, 1995.