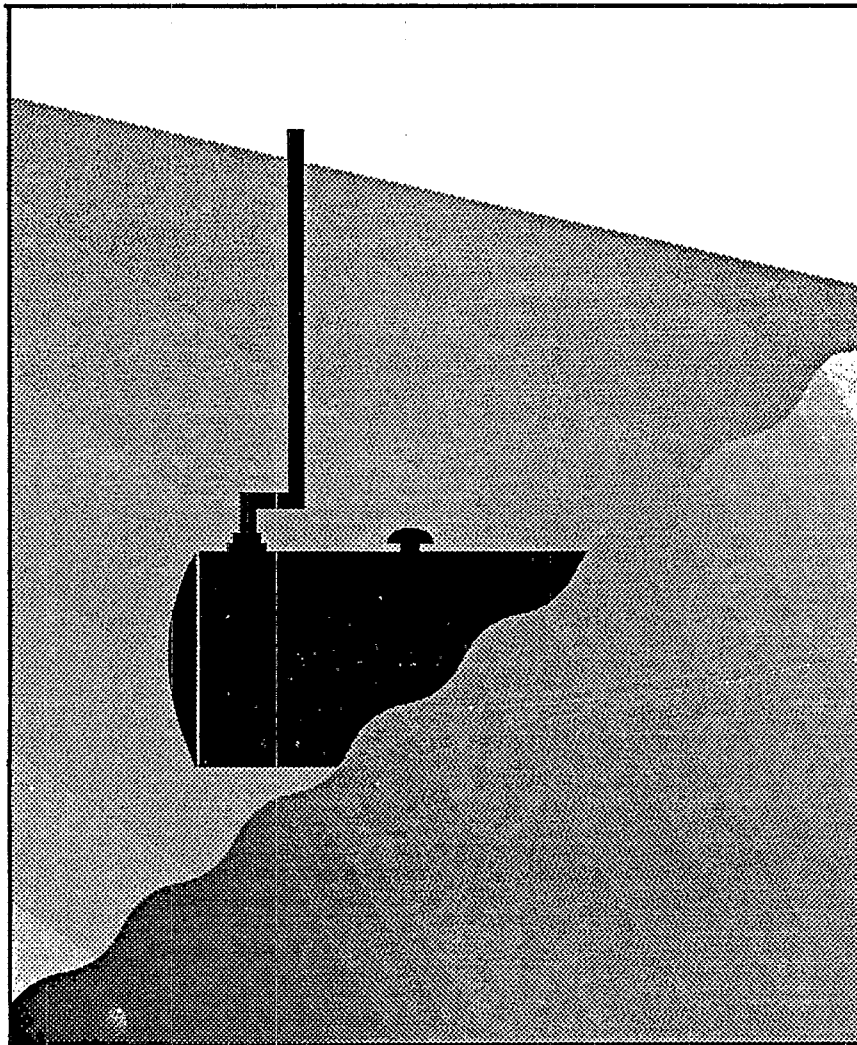




Field Citations Training

Instructor's Manual



FIELD CITATIONS TRAINING:
Instructor's Manual

**U.S. Environmental Protection Agency
Office of Underground Storage Tanks**

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INSTRUCTOR GUIDE

This manual is designed to be used as part of an overall inspector training course or as a stand alone training on field citation techniques. It contains a basic outline for the material to be covered in the course, specific instructions for class activities which will reinforce the training concepts and encourage class participation, hard copies of hand-outs for the class, and suggestions for program-specific materials that could be developed at the state or local level.

NOTE: Field citation program directors must make many policy decisions before instructors can confidently conduct training. Program directors and course developers should refer to the companion publication "How to Develop a Field Citation Program," EPA/530/UST-91/014, for guidance in developing a field citation program and training course. As an instructor, you must be completely familiar with program policy in order to teach the course. Inspectors will have challenging questions that need to be addressed and there are a number of areas in the manual that must be completed with jurisdiction-specific information. (See the list of jurisdiction-specific documents at the end of this section.)

TRAINING PRESENTATION

The course is designed to present information through a combination of lectures (accompanied by visual tools), exercises (such as hands-on work with a field citation or scenarios), and group discussion. Each of these elements is essential in conveying the information in the manual to the inspectors. The instructor outline should provide you with the direction and tools that you will need to accomplish this delivery effectively. More information is provided in the "How to Use the Manual" section below.

DESIGN OF THE COURSE

This training course is designed to be as flexible as possible. The course contains modules on a wide range of subjects that can be presented in a number of different ways. The modules can be presented as they are arranged in the manual, re-arranged to best suit your needs, or deleted entirely if they are not appropriate for your program. For example, we have included information on sampling, evidence, chain of custody, and testifying, all of which may be used in different ways for different programs. You will need to consider what pieces you want to use and how you will use them.

The manual was developed under the assumption that field citations are one step in the enforcement process and that each field citation may result in a case that will be presented in a hearing or in court. Thus, while it is unlikely that many citations will result in such cases, the manual contains material that will be necessary for the inspectors to know in the event that a citation moves through the administrative or court system. All of this information may not be necessary for every local program. For example, if your program will only have inspectors citing a few, clear-cut violations that will not involve sampling, you may wish to present the training without the sampling section. Also, if your inspectors will receive extensive inspector training elsewhere, you may wish to present only those sections that refer specifically to field citation techniques.

LOCAL INFORMATION

This training was prepared on a "generic" basis, to be used by as many States and localities as possible. It is necessary for course coordinators and instructors to include jurisdiction-specific material regarding certain policies and procedures. For example, Module III on Organization and Program Overview needs to be developed with jurisdiction-specific material. Also, you will find that the manual uses certain generic terms, such as "Department" or "Agency." We apologize if these terms do not accurately reflect your organization but they are used only as general descriptive terms.

USING ADDITIONAL INSTRUCTORS

The manual is designed to provide enough detail to allow an individual with a working knowledge of the material to present the module, even if he or she has no training experience. For this reason, you may wish to split the course and have different members of your department teach different sections. For example, one of your department's attorneys could present the testimony or evidence sections, or an outstanding inspector with experience could present the chain of custody section. Different instructors provide variety for the inspectors but it is extremely important that "guest instructors" cover the material in the manual and do not simply "talk off the top of their heads." It is important to keep the course well paced and directed, especially if others teach specific modules, in order to maintain the inspectors' interest. Also, the training will be more credible if the guest instructors are familiar with your program and can refer to field situations or other issues that are familiar to your instructor. In other words, while it may be a feather in your cap to have an important Bureau chief teach a section of the course, the students may be more receptive and learn more from an experienced inspector or long-time prosecuting attorney.

HOW TO USE THE MANUAL

The information in the manual is presented in a two-column format. The left column contains the text for the course; the text in the instructor and student manuals is identical. The smaller, right column contains specific instructions on how to present the course in the instructor manual and is blank in the student manual (so the students can take notes).

The manual is divided into clearly labeled modules, which can be used as the instructor sees fit (see above). Handouts and samples from other program's training courses are included at the end of each appropriate module as "teaching aids."

INSTRUCTOR ASSISTANCE

Module Instruction Sheet. At the start of each module, you will find a one-page instruction sheet to use when presenting the course. The sheet provides a list of the outcomes you should work to achieve in teaching the manual, indicates approximately how long it should take to present the material, and provides a list of other sources of material for your use, or for inspector/student use. This information is provided to give you guidance as you teach the course; you may wish to vary your presentation time or direction.

Right Column Text. The text in the right column provides specific direction for presentation of the material and use of teaching tools, as well as information on the content of the course and the message the instructor should attempt to convey. The italicized text provides tips and additional information and is directly across from the course text to which it refers. You should read these sections carefully when you are preparing to teach the course. The non-italicized bold text describes the specific teaching tools you should use in each section and how you should use them. These tools are found at the end of each module. The accompanying student manual has a blank right column, which students can use to record notes.

Scenarios/Discussions. The manual provides specific scenarios, discussion topics, and discussion questions at the end of the modules (these materials are only included for modules in which they are needed; some modules do not have these additional materials). You should feel free to augment these with local situations or issues. Please note that these items are intended to foster class participation in the training and should serve to get the inspectors talking and contributing to the course.

Please note that there may be inspectors who are very uncomfortable in front of groups. No inspector should be forced to "perform" in a role play or discussion if he or she strongly objects. For this reason, the manual includes a number of discussion topics and questions that can be used to foster class discussion without intimidating those who may be uncomfortable in certain situations. In addition, the role-play scenarios contain suggested methods of using the role-play so that all members of the class are comfortable and learn from the exercise.

Handouts and Samples. The back of most modules contains items from other enforcement or UST programs that may be helpful in teaching this course. These items can be used as handouts or overhead slides during the course, or can be used as examples for developing similar (but program-specific) material on your own for the course. A brief discussion of how each handout or sample should be used is contained in both the module cover page and in the instructional text in the right column of the manual.

DETAILS AND LOGISTICS

There are a number of details that you will need to attend to before you begin teaching from this manual.

Pre-Course Planning for the Course Coordinator

- Schedule date and time of training.
- Arrange instructor schedule, distribute materials (if you are using multiple instructors).
- Meet with all instructors to review their presentations and ensure speakers are prepared for the sessions.
- Review all course material thoroughly. Preview all slides and video segments that you are planning to use. Titles do not always describe content! All audio-visual segments should be relevant to the course content. For example, don't include slides that aren't relevant simply for the sake of adding slides.
- Prepare any jurisdiction specific material (outlines, slides, overheads, videos).

Logistics

- Arrange for all necessary audio and visual equipment.
- Provide necessary props for any role play.
- Make copies of all handouts.
- Arrange room. (Avoid a "classroom" setting. Rooms with chairs in a U-shape or with small tables are best for group discussions.) Check the lighting, temperature, and "soundproofing" of the room and anything else that may affect the comfort of the students. If heating the room, remember that a room full of people can get warm quickly and you may want to set the temperature a little lower than standard comfort level.

- Make sure that all the students are situated so that they can hear you. Unless you hear any complaints about the room environment, do not ask students if they are comfortable or need adjustments to the lighting or temperature. Taking care of these requests can become time consuming and you should have made all the proper adjustments ahead of class time.

Pre-Course Planning for Presenters

- Allow approximately four hours of preparation time for every one hour of class time you will teach.
- Study the instructor guide and student manual. Review the reference materials (example sheets and handouts), and select other reference materials and audio-visual materials (such as slides your program may have on hand or appropriate videos) that you want to use during the course. It is critical that presenters properly introduce all handouts and audio-visual aids so the class understands how these tools fit into the course.
- Arrange presentation of additional reference materials and audio-visual materials within the course. Practice use of the audio-visual materials and possible incorporation of scenarios and role plays into the training. Get a good feel for the length of time that will be required to present the audio-visual materials and the scenarios.
- Research any regulations that are specific to your jurisdiction and must be presented within the course.
- Be certain to note the schedule that you have developed for presenting the materials in addition to any notes on items not in the manual and side notes to help in the presentation. It will be easy to forget something once you have begun the presentation.
- Take a watch to the podium or the desk with you or make sure you are facing a clock in the classroom.
- Pace your speaking pattern. Taking a few deep breaths now and then during delivery will help to alleviate nervousness and speaking too quickly.
- Although the manual is designed to allow the instructor flexibility in tailoring the course to the trainees' needs, instructors should avoid contradicting the text or another instructor's presentation in front of the trainees. Trainees are likely to become confused if they hear conflicting opinions during training. If instructors have a difference of opinion it should be resolved during a break and the results presented to the class. The instructor should make sure that such disputes do not interrupt the class.

STUDENT EVALUATION

Getting feedback on the training course is critical to ensuring that the training course is an effective teaching tool. If your program may offer this training more than once, you should make sure the students fill out an evaluation and then revise the course accordingly. You will find a sample student evaluation form at the end of this section, immediately preceding the sample course schedule.

SAMPLE STUDENT EVALUATION

Please take a minute to complete this form and return it to the course coordinator or lead instructor. Please make your comments as specific as possible. Your comments will help us revise and improve the training for future participants.

- (1) Do you feel that the training has prepared you to issue field citations confidently? Why or why not?
- (2) Did the training adequately cover the most important issues relating to issuing field citations? Were there sections that should have been covered more extensively? Topics not covered that you felt should have been?
- (3) Were there any topics you think were particularly well or poorly handled? Please explain.
- (4) Was the use of multiple instructors helpful or did you find it distracting?
- (5) Were the instructors successful in presenting their materials? What could be improved in the next training session?

- (6) Which exercises (scenarios, role plays, discussions) were most effective? Why? Which exercises did not add to the course? How would you improve these exercises?
- (7) What aspect of the training seminar did you like best? What aspect did you like least?
- (8) What specific suggestions do you have for improving the training seminar? What elements should be changed, added, or removed?

Thank you for your time. Please return this form to the course coordinator before you leave.

FIELD CITATION INSPECTOR TRAINING

Sample Schedule

Day One

| | |
|--------------------|---|
| 8:30 - 9:00 a.m. | Introduction to Training/General Overview |
| 9:00 - 10:15 a.m. | Explanation of Field Citations |
| 10:15 - 10:30 a.m. | BREAK |
| 10:30 - 11:00 a.m. | Organization and Program Overview |
| 11:00 - 12:00 p.m. | Defining Violations and Making Enforcement Decisions |
| 12:00 - 1:00 p.m. | LUNCH |
| 1:00 - 2:00 p.m. | Defining Violations and Making Enforcement Decisions Wrap-Up and Questions |
| 2:00 - 2:15 p.m. | BREAK |
| 2:15 - 3:30 p.m. | Procedures for Issuing Citations |
| 3:30 - 4:30 p.m. | Follow-Up to Issuing Citations |

Day Two

| | |
|--------------------|--|
| 8:30 - 9:00 a.m. | Review of Questions |
| 9:00 - 10:30 a.m. | Legal Evidence Needs |
| 10:30 - 10:45 a.m. | BREAK |
| 10:45 - 11:45 a.m. | Chain of Custody and Sample Handling |
| 11:45 - 1:00 p.m. | LUNCH |
| 1:00 - 2:30 p.m. | Enforcement Case Development and Testimony |
| 2:30 - 3:30 p.m. | Regulated Community Relations |
| 3:30 - 4:00 p.m. | Wrap-Up |

JURISDICTION-SPECIFIC INFORMATION NECESSARY TO COMPLETE COURSE PREPARATION

- | | | |
|-------------|-----|---|
| Module II | (1) | Mission statement of agency |
| | (2) | Specific job performance review procedures affected by the citation program |
| | | |
| Module III | (1) | Organizational structure |
| | (2) | Inspectors' position in the organization |
| | (3) | Relationship between expedited enforcement and other enforcement efforts |
| | (4) | Specifics of program implementation |
| | | |
| Module IV | (1) | Procedures for handling multiple minor violations |
| | (2) | Procedures for handling major and minor violations at one site |
| | (3) | Circumstances warranting standard enforcement procedures |
| | (4) | Procedures for using warning citations/circumstances that warrant warnings |
| | (5) | Short-form wording lists |
| | | |
| Module V | (1) | To whom inspectors may issue citations |
| | (2) | When inspectors must issue citations |
| | (3) | Getting signatures on citations |
| | (4) | Brief overview of appeals process |
| | (5) | Setting hearing dates |
| | (6) | Scheduling informal conferences |
| | (7) | Modifying or voiding citations |
| | (8) | Handling lost citations |
| | | |
| Module VI | (1) | Specific follow-up procedures for citations |
| | (2) | Delivery options for citations |
| | (3) | Procedures for processing citations |
| | (4) | Necessary paperwork |
| | | |
| Module VII | (1) | Policies regarding collection of evidence |
| | (2) | Policies regarding documentation of evidence |
| | (3) | Policies for developing inspection reports |
| | | |
| Module VIII | (1) | Policies regarding sampling in the field |
| | (2) | Specific chain of custody procedures |
| | | |
| Module IX | (1) | Role of inspectors in the appeals process |
| | | |
| Module X | (1) | Handling questions from the general public or the press |

MODULE I:

INTRODUCTION TO FIELD CITATION TRAINING

Desired Outcome for the Module:

Inspectors will be introduced to what will be covered in the training course.

Approximate Time: 30 minutes

I. INTRODUCTION TO THE TRAINING

- A. Explanation of Field Citations
- B. Organization and Overview of Enforcement Program
- C. Defining Violations and Making Enforcement Decisions
- D. Procedures for Issuing Citations
- E. Follow-Up Procedures
- F. Legal Evidence Needs
- G. Chain-of-Custody and Sample Handling
- H. Enforcement Case Development and Testimony
- I. Regulated Community Relations
- J. Wrap-Up Discussions

MODULE II:

EXPLANATION OF FIELD CITATIONS

Desired Outcome for the Module:

- Inspectors will understand their role in accomplishing the mission of protecting human health and the environment
- Inspectors will understand the difference between field citations and standard enforcement
- Inspectors will realize the advantages of using field citations
- Inspectors will be aware of the change from their previous role of inspection officer to their new role as enforcement officer
- Inspectors will understand the positive impact of field citations on their jobs
- Inspectors will be motivated to use field citations

Teaching Aids:

- Group Discussion Topics
- Reference sheet describing the multiple roles of the inspector
- Chart detailing the differences between field citations and standard enforcement

Approximate Time: 1 hour and 15 minutes

II. EXPLANATION OF FIELD CITATIONS

A. Overview of Module

1. Overview of enforcement
2. Role of inspectors in enforcement activities
3. Field citation program and techniques
4. Advantages of field citations
5. Role of inspectors in the field citation program

B. Mission Statement of the Agency

1. To protect human health and the environment
2. To promote compliance and enforce regulations
3. To ensure that violations of regulations are addressed in the most effective manner possible

C. Enforcement

1. Enforcement is any action taken under the authority provided for in a statute, administrative order, or judicial action to achieve compliance with a law
2. One of the major roles of inspectors is promoting compliance and enforcing against violations
3. Field citations are one piece of a comprehensive enforcement strategy

D. Role of Inspectors in Accomplishing the Mission of Protecting Human Health and the Environment

1. Inspectors are the backbone of enforcement and compliance efforts
 - a. Inspectors are often the first and only contact the regulated community has with the Agency
 - b. Inspectors represent the entire Agency in any interaction with the community
 - c. The effectiveness of the enforcement program depends on the inspectors

Section B should be brief. Inspectors will probably already understand their roles as protectors of the environment and enforcers. You should remind them of these roles in Parts 1 and 2 and then discuss how expedited enforcement techniques will help them carry out these roles.

- d. The public depends on inspectors to confirm that facilities are in compliance and not threatening the environment
- 3. Inspectors perform more than one essential role in the enforcement process
 - a. Official representative of the Agency
 - b. Fact-finder
 - c. Enforcement case developer
 - d. Enforcer/citer

E. What are Field Citations?

- 1. Field citations usually involve inspectors issuing enforcement notices on site, often with a penalty
 - a. Citations are similar to traffic tickets
 - b. Citations are issued by an inspector on site or shortly thereafter
- 2. Used for clear-cut violations
 - a. Simple to determine on site if a violation has occurred (e.g., no sample test required)
 - b. No "grey area" issues
- 3. Require owner or operator to correct the violation
- 4. Can be warnings, notices of violation, short-form settlement agreements, etc.

F. Differences between Standard Enforcement and Field Citation Procedures

- 1. Standard enforcement usually involves Agency staff issuing a Notice of Violation (NOV) or Administrative Order to an owner or operator through relatively complicated office procedures
- 2. Field citations involve relatively simple procedures and are issued in the field
- 3. Standard enforcement procedures may include the activities of one or more offices and many staff

4. Inspectors issue citations and handle most of the follow-up with field citations
5. Standard enforcement generally involves extensive paperwork and sometimes lengthy court proceedings; cases are often not resolved for long periods of time
6. Field citations often eliminate extensive paperwork and court backlogs
7. Minor violations are often not addressed using standard enforcement methods
8. Using field citations, an inspector may be able to address a simple violation quickly before it becomes a major problem
 - a. Minor violations, when left unaddressed, have the potential to become major violations
9. Standard enforcement requires legal staff involvement in nearly all cases
10. Field citations only involve legal staff at the program development stage; most of the issues can be handled by the inspector or other program staff

G. Advantages of Field Citations

1. Provides a relatively simple and effective method for dealing with clear-cut minor violations
2. Allows the State or locality to take action in a manner that is less complicated and cumbersome than standard enforcement proceedings
3. Allows more violations to be cited
4. Presents clear sense of consequences to owner and operators
5. Allows violations to be addressed immediately, on site
6. Provides the inspector with another useful tool in protecting human health and the environment
7. Serves as a deterrent to violators; word will spread in the regulated community about the program

Sections F and G should demonstrate the advantages of expedited enforcement over standard enforcement.

A chart describing the difference between standard enforcement and expedited enforcement is included at the end of this section as a handout.

The introductory video on the District of Columbia's Office of Civil Infractions Program is a good sample of a video developed by one locality to present its overall field citation program. You may wish to obtain a copy from Washington, D.C. and view it as an example. Contact the District of Columbia's Office of Civil Infractions for information. The address can be found in the companion booklet, "How to Develop Your Own Field Citation Program."

8. Sets forth enforcement strategy from the outset
 - a. Under standard enforcement, policy is often determined after the enforcement action is initiated
 - b. Lack of established policy can be difficult and confusing for regulated community and inspectors

H. Advantages of Field Citations for Inspector's Job

1. Inspectors find violations and cite them, rather than reporting the violation to enforcement personnel at the Agency
2. Inspectors have the satisfaction of facilitating the relatively speedy conclusion of cases ("immediate gratification")
3. Inspectors can follow enforcement cases through to their conclusion
4. Inspectors have responsibility of knowing when and what to cite
5. Inspectors become a constant, visible enforcement presence
6. Inspectors will be recognized as effective enforcement officers
7. Inspectors may have more control of the outcome of their work through the use of citations
8. Lengthy and complicated appeals are unlikely, so inspectors will have more control over their schedules
9. Field citations increase the inspectors' enforcement presence considerably
10. Field citations allow the inspector to issue a warning or penalty that is "tailored" to the situation without requiring extensive administrative resources
11. In an "introductory" warning citation program, the inspectors will have important input to perfect the procedures; they will be the experts

Instructors will need to address Section H in a program-specific manner. Some programs may be established and inspectors will be familiar with standard enforcement procedures, a situation which may require "convincing" that expedited enforcement is more efficient overall. Other programs and/or inspectors may be new and more accepting of the concept.

12. Issuing citations may help inspectors have an immediate effect on protecting human health and the environment

- a. Owners and operators may be more vigilant about keeping tank systems in compliance if violations are cited immediately
- b. Owners and operators will realize that the Agency "means business," and thus come into compliance to avoid citations

I. Inspectors' Roles May Change with the Implementation of the Field Citation Program

- 1. The relationship between inspectors and regulated parties may become similar to the relationship between traffic police and citizens
- 2. Inspectors will have the authority to take immediate enforcement actions
- 3. Standard enforcement methods will still be necessary in some situations, especially in the case of "major" violations
- 4. Violations will need to be addressed promptly for the program to be effective

At this point, you should insert any local points regarding the mission of the Agency or Department. You should explain specific job performance review procedures and address how the citation program may or may not affect the reviews. Be sure to include local policies and guidelines.

Conduct class discussion using the Group Discussion suggestions that follow. Also, distribute handout on roles of inspectors found at the end of this module.

MODULE II: Teaching Aids

- Group Discussion Topics
- Multiple Roles of the Inspector
- Field Citations Compared with Standard Enforcement

GROUP DISCUSSION TOPICS

A group discussion of the overall concept of field citations should be held. The discussion should include a candid explanation of what will be required of inspectors and how the job may change and then allow time for all inspectors to discuss the new program and their roles in it. The discussion will be especially helpful in the case of experienced inspectors who have used standard enforcement methods in the past. Some inspectors, new or old, may have difficulty with the concept of issuing citations. The discussion may help alleviate their concerns and may be helpful in identifying inspectors who might not have the personality to issue citations. As many of the topics that inspectors bring up here may be covered in subsequent modules, this discussion can be used to get concerns out in the open from the beginning.

Suggestions for group discussion topics:

- What problems do the inspectors foresee with field citations?
- How would the inspectors address the problems?
- How will field citations affect the inspectors' enforcement activities on a day-to-day basis?
- How can inspectors get better cooperation from the owners and operators when using field citations?
- What are inspectors' initial problems with/objections to using field citations?

If the program will be implementing an "introductory" warning citation program at first, stress how this may make inspectors' jobs easier by preparing both themselves and the regulated community for the final citation. Also, inspector input on the program will be needed to refine the program after the warning period is complete.

EPA's Office of Enforcement and Compliance Monitoring (OECM):

Multiple Roles of the Inspector

The following handout should be distributed to students during the Module II discussion concerning the roles of inspectors. It provides an interesting view of the job of inspector and presents the different tasks the inspectors may be asked to perform.

Multiple Roles of the Inspector

- Official Representative. The inspector is a representative of EPA and is often the only Agency official the plant manager and facility workers will ever see in person. In dealing with these facility employees, the inspector must be dignified, tactful, courteous, and diplomatic. The inspector's technical competence and know-how reinforce the credibility of EPA. Equally important is the manner in which the inspector explains the purpose of the visit, what the requirements are, and why the facility should comply with them.
- Fact-Finder. The inspector assesses whether the facility is in compliance with the laws and regulations and with any relevant environmental permits. The inspector must be skilled in obtaining the critical information that is necessary for EPA to determine compliance or noncompliance. Often the key pieces of information are not easy to see and go beyond the standard data from stack tests, effluent samples, temperature readings, and the like. A skilled inspector has developed the ability to obtain significant information through conversation with facility employees and knows how to follow up on these leads. When a facility is found to be not in compliance, the inspector may also be responsible for identifying the cause of the problem.
- Enforcement Case Developer. The inspector collects and preserves evidence of noncompliance for use in enforcement actions. The inspection is usually the primary basis for the government's case both in administrative and judicial enforcement actions. The documentation in the inspection report and the inspector's field notes can make or break a case. The same is true of samples taken during the inspection. Without good documentation by the inspector, even the most thorough inspection may be useless for enforcement purposes. But an expertly prepared inspection report with its associated samples can be highly persuasive to a judge, a jury, or an administrative law judge. The inspector is often the key witness for the government in an enforcement proceeding.
- Enforcement Presence. The inspector "shows the flag," creating a visible, credible presence of the interest and power of government in the eyes of particular managers at a particular site. More important, the inspector's presence casts a wide shadow over other regulated facilities, whose managers are deterred from violating the environmental requirements because they know that an inspector may visit their facility, too. Enforcement, as personified in the inspector, is the underlying motivator for those managers who would not otherwise be concerned about keeping their facilities in compliance.
- Technical Educator. The inspector serves as a source of regulatory information, and tactfully provides technical assistance to facility managers by directing them to useful sources of information relevant to problems observed at the facility. The inspector may discuss remedial actions that might be explored and may refer questions and problems to other EPA or State personnel with pertinent expertise. However, the inspector does not give advice, as this could jeopardize future enforcement action.
- Technical Authority. Inspectors are frequently called upon to help the Agency interpret regulatory requirements, assess the adequacy of control measures, interpret technical data, and assess environmental impacts.

EPA's Office of Underground Storage Tanks

Field Citations Compared with Standard Enforcement

This chart compares the characteristics of expedited enforcement with the characteristics of standard enforcement. It provides a concise summary of the benefits of expedited enforcement for the inspectors and the program as a whole.

FIELD CITATIONS COMPARED WITH STANDARD ENFORCEMENT

FIELD CITATIONS

Inspectors issue field citations on site (or shortly after leaving the site)

Field citations provide immediate enforcement response to clear-cut violations and rapid remediation since the violator has a greater incentive to address the cited violation and pay a modest fine than to contest

Field citations streamline the enforcement process by focusing on the inspector, often reducing or eliminating the need to involve administrative or legal personnel in minor violations

Field citations can reduce court backlogs and facilitate enforcement by keeping small cases out of the enforcement pipeline and focusing resources on larger cases

Field citations create a clear message for violators that no violation will be overlooked

A field citation program builds staff morale as the citations allow staff, especially inspectors, to close many cases nearly on the spot or to see a case through from initial citing to settlement and compliance

STANDARD ENFORCEMENT

Inspectors report violations to the Agency for the issuance of NOVs by mail by administrative staff, based on inspector reports

Standard enforcement of even minor violations can result in protracted delays as files are processed, possibly encouraging violators to delay correcting the violation or to contest a "stale" case

Standard enforcement actions require the inspectors and administrative staff to spend time and resources processing enforcement cases

Standard enforcement cases are often resolved in administrative hearings or the civil or criminal court system, meaning that backlogs of cases are created and that cases are often settled months or years after they begin

The complex nature of standard enforcement makes it difficult to take action against all violations; often, only the most serious violations are addressed

Standard enforcement can lead to frustration among inspectors and administrative staff because of the length of time it can take to resolve a case and the transfer of control of the case to legal staff

MODULE III:

ORGANIZATION AND PROGRAM OVERVIEW

Desired Outcome for the Module:

Inspectors will understand their role in the enforcement process

Inspectors will be familiar with relevant State or local organization and roles and functions of the departments

Inspectors will understand how field citations fit into overall enforcement efforts

Inspectors will know the details of program implementation

Teaching Aid:

Organization materials from District of Columbia's Office of Civil Infractions. (Use local materials, if available.)

Approximate Time: 30 minutes

III. ORGANIZATION AND PROGRAM OVERVIEW

This module is a blank module. Localities will need to develop the section using jurisdiction-specific material. Material should cover the following points:

- Describe inspectors' role in the enforcement process
- Provide overview of the relevant state or local agency, and the roles of its staff
- Show how field citations fit into overall enforcement efforts
- Describe and explain the implementation of the program (how long will the warning period be, etc.)

Module III is entirely jurisdiction specific. Please see the District of Columbia's Office of Civil Infractions organizational materials in the samples section at the end of the module. The D.C. documents provide an example of how one locality presented the organizational material.

You may wish to talk to your office director to determine what information would be relevant to include for your program. We recommend that you keep this section relatively brief; it should be treated as an "overview." The key points to remember here are:

- *Clearly indicate to the inspectors where they fit in the structure of your organization*
- *Explain how the new expedited enforcement program will fit into and affect the organization*
- *Provide a brief overview of when or whether standard enforcement methods will be necessary*

Distribute copies of organizational materials and/or use overheads.

MODULE III: Teaching Aid

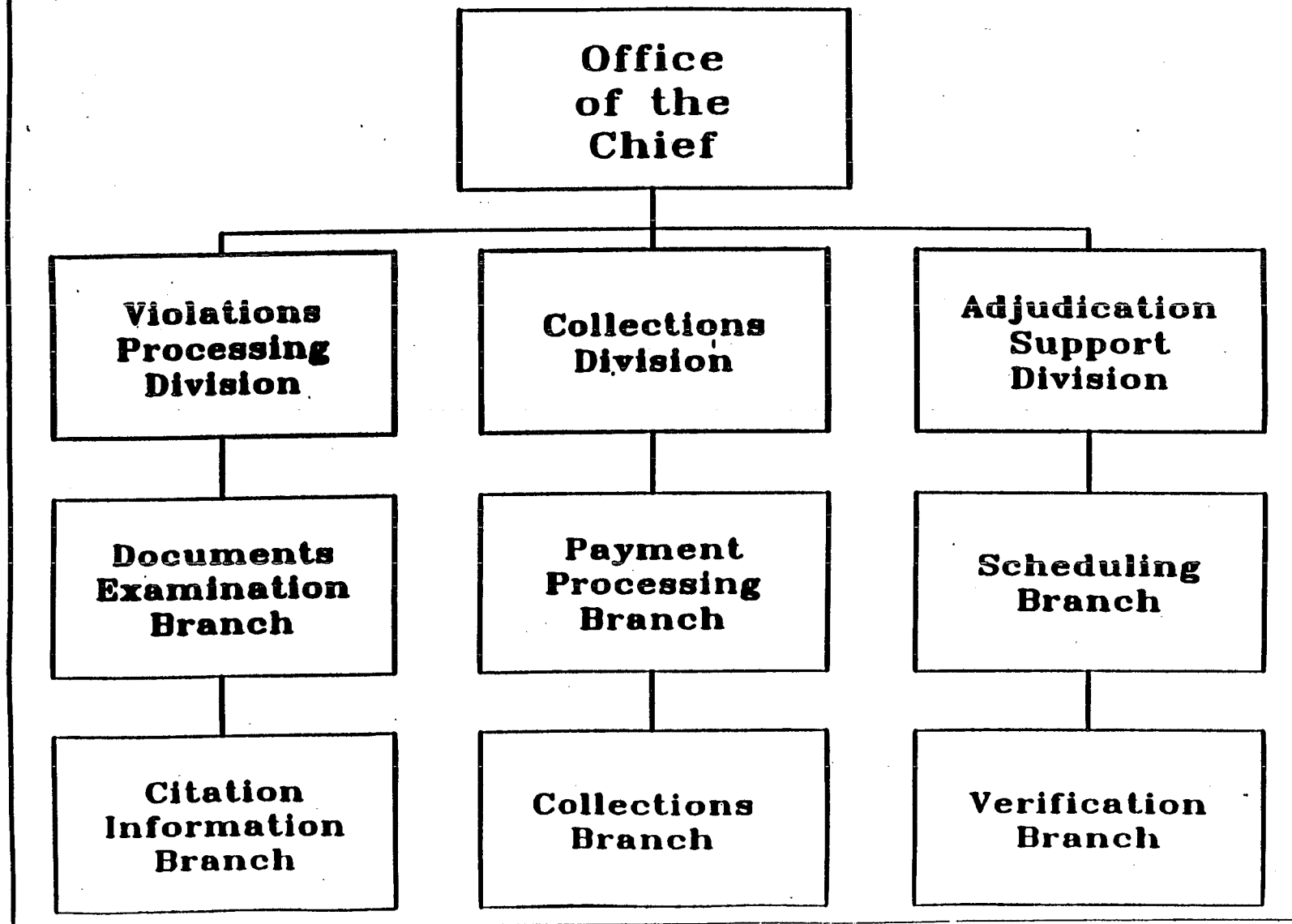
- **Samples of District of Columbia Office of Civil Infractions Organization Materials**

District of Columbia, Office of Civil Infractions

Organizational Materials

An example of materials that could be used in conjunction with the Module III discussion of program organization and staff roles. Washington D.C. has developed charts explaining the roles of each office in the Civil Infractions Program for their inspector training course. An instructor may wish to make similar charts and handouts for his or her program. The Washington D.C. instructors have copied each of these charts onto an overhead transparency to use during course presentation.

THE OFFICE OF CIVIL INFRACTIONS



OCI'S FUNCTIONS AND ORGANIZATION

OFFICE OF THE CHIEF:

Acts as a Liason with:

1. Office of Adjudication
 2. Office of Compliance
 3. Metropolitan Police Department
 4. Corporation Counsel
 5. Other Government Agencies
- Ensures the enforcement of penalties imposed under the Civil Infractions Act of 1985
 - Coordinates training sessions with the Office of Administration and Management (OAM)
 - Conducts staff training sessions designed to ensure consistency in the issuance of citations

VIOLATIONS PROCESSING DIVISION:

- Coordinates distribution of general information with entire department of consumer and regulatory affairs.
- Tracks the ticket from issuance through adjudication to collections
- Edits and prepares all tickets for entry into Civil Infractions Citation Tracking System (CICTS)
- Monitors system to identify cases for referral to other administrators

CITATION INFORMATION BRANCH:

- Provides information to the public concerning Office of Civil Infractions
- Assists walk-in respondents with payments of tickets and requests for hearings
- Answers telephone inquiries

DOCUMENTS EXAMINATION BRANCH:

- Collects and processes citations issued by inspectors/investigators
- Edits all tickets and checks for errors
- Enters data contained in NOIs into Civil Infractions Citation Tracking System (CICTS)

COLLECTIONS DIVISION:

- Processes all payments
- Coordinates deposits of fines and revenues with Office of the Controller and D.C. Treasurer
- Initiates collection proceedings for delinquent accounts
- Coordinates suspension/revocation of licenses resulting from failure to pay with Offices of Adjudication, Compliance and other Administrations

PAYMENT PROCESSING BRANCH:

- Receives and records all payments
- Prepares financial reports

COLLECTIONS BRANCH:

- Collections proceedings include research to the corporation counsel for prosecution, suspension and/or revocation of licenses
- Initiates second notices of infraction (SNOI) to respondents who did not respond in a timely manner

ADJUDICATION SUPPORT DIVISION:

- Maintains liason with the Office of Adjudication
- Provides administrative support to the Office of Adjudication
- Processes requests for hearings
- Coordinates the scheduling of hearings
- Verifies respondents compliance with Administrative Law Judge's orders

SCHEDULING BRANCH:

- Schedules hearing (in person or by mail)
- Provides notices of hearings to respondents and DCRA inspectors and investigators
- Prepares case files for hearings
- Initiates mail adjudication process

VERIFICATION BRANCH:

- Monitors respondent's activities to ensure timely compliance with Administrative Law Judge's order
- Receives and verifies certificate of compliance and support documents
- Initiates re-inspections on respondents not certifying abatement of violations
- Refers matter of untimely compliance, or failure to certify compliance to Administrative Law Judge and Office of Compliance

MODULE IV:

DEFINING VIOLATIONS AND MAKING ENFORCEMENT DECISIONS

Desired Outcome for the Module:

Inspectors will know which violations they will address using citations

Inspectors will know what to do if they encounter complicated situations

- (a) Multiple infractions
- (b) Combinations of minor and major violations
- (c) The necessity for standard enforcement procedures

Inspectors will learn what short-form wordings are and how to use them consistently

Inspectors will understand the purpose of introductory warning citations

Inspectors will understand the importance of consistency

Inspectors will develop a common understanding, approach, and vocabulary among themselves

Teaching Aids:

Short-form wordings (use local form, if available; selected short-form wordings for the Federal technical standards are included in samples section at the end of the module)

Overhead short-form wordings (use local form, if available)

Scenarios

Approximate Time: 2 hours (including question and answer period)

IV. DEFINING VIOLATIONS AND MAKING ENFORCEMENT DECISIONS

A. Overview of Module

1. Skills necessary to determine when to cite
2. Overview of citations and procedures for using them
3. Use of short-form wordings

B. Judgment in the Field

1. Clear-cut v. non-clear-cut violations
 - a. Clear-cut violations allow simple determination (on-site) of whether a violation has occurred (no gray areas)
 - b. Inspectors should not need to make judgment calls regarding whether a violation has occurred.
 - c. Inspectors can always call a supervisor if they have doubts about a situation
2. Local procedure when there are multiple minor (citable) violations at one site
3. Local procedure when there are both minor and major violations on one site
4. Local policies for use of standard enforcement procedures in certain circumstances

Module IV may be the most critical in the course, and it may take some time to go over the violations and short-form wordings. You may want to have inspectors try to make enforcement decisions in example scenarios before you begin explaining the policies. Stress that situations may not always be clear-cut and the important thing is to have consistency among inspector responses to situations. Make the inspectors aware of grey areas and allow the class to work out solutions. You may then teach the section using the initial inspector response to the situation.

All of the issues covered in Section B are program-specific. You should cover each of these areas and explain your local procedures.

Determining when to cite, especially if there are multiple violations at one site, is one of the most difficult decisions the inspector will have to make in the field. The more guidance that administrators can provide, the better the job inspectors will do in the field. This is an area in which inspectors are likely to ask many questions. The purpose of this module is to give inspectors clear guidance, so that when they are in the field they are confident about the actions that they take.

C. Warning Citations

1. Using introductory warning citations
 - a. Introductory warning citations are meant to introduce both the regulated community and inspectors to the procedures of the citation program
 - b. The citations are useful as public relations
 - 1) Introducing the program to the regulated community and the general public
 - 2) Informing the regulated community of its responsibilities
 - c. The citations generally do not carry penalties or immediate enforcement actions
 - d. The citations are designed to warn owners and operators to correct violations; the Agency will take further enforcement actions if violations are not corrected
 - e. The end of the warning period
 - 1) Violations could possibly be added to the program
 - 2) Procedural adjustments could be made
 - 3) Penalties could be attached to specific violations
 - f. Inspectors should use the period to evaluate the procedures and help to develop an efficient program
2. Ongoing warnings
 - a. If the program is not using introductory warning citations, or if the introductory period is complete, there may be circumstances in which it is appropriate to "warn" owners and operators
 - b. Warning an owner or operator implies that there will be no formal enforcement actions at present, but the violation(s)

Section C concerns the use of introductory warning citations and the issuance of warnings to owners and operators. It is important for inspectors to understand the concept of warning v. citing, especially if your inspectors will be warning on a regular basis. Some programs will use warnings on an ongoing basis; a warning citation is issued before a penalty citation. This concept is covered in Section C, part 2.

Use written scenarios (such as the two included as teaching aids at the end of this module) to demonstrate grey areas and generate discussion. Show video scenarios, if available and appropriate.

must be corrected or formal actions will result

- c. Warnings will probably be an option for you only in limited circumstances, e.g., the owner or operator is aware of the violation, has contracted with someone to fix it, and the contractor is coming the next day
- d. Warnings should not be used indiscriminately; the citation program is designed to give a clear enforcement message to owners and operators

D. Short-Form Wordings

1. Short-form wordings are concise phrasings of regulations
 - a. Easy to remember
 - b. Recorded on citations
 - c. Used to cite violations
2. In programs with penalties, each short-form worded violation or category of violations corresponds to a particular penalty amount
3. Inspectors should be familiar with the wordings and the full meaning of each before conducting inspections
4. It will be useful to bring a short-form list or booklet on inspections, if available
5. Consistency of wordings is important
 - a. Short-form wordings should be quoted exactly in all situations
 - b. The code should be the guide; inspectors should not try to "fit" a situation to the code
6. Each short-form wording should be carefully defined and reviewed by program staff and inspectors before it is used in the field
7. Inspector input is essential in developing wordings; it is important to report short-form wordings commonly misunderstood by owners or operators to program directors so that they may be revised

In Section D, you should go over the short-form wordings for the program, taking the time to explain each of them carefully. Stress that it is important that all inspectors define and cite violations using the same vocabulary and phrasings; consistency is crucial to the program.

Distribute copies of your short-form wording lists, especially if you have a booklet for inspectors to carry with them in the field. An overhead transparency of the list may be useful. An example of a short-form wording list is included in the samples section at the end of the module.

Use scenarios and role play (see the following "teaching aids" section) to help students learn the content of this module. Use video segments or scenarios or slides your program may have from site inspections to supplement the materials provided in this manual.

Module IV: Teaching Aids

- Scenario for Procedures to Resolve a Field Citation
- Scenario for Defining Violations
- Short-Form Wordings List

SCENARIO IV-1

This scenario, a simple example of an on-site inspection, is designed to help inspectors practice procedures involved in issuing a field citation.

The inspector is conducting a routine inspection at a large gas station. Everything seems to be in order. When the inspector examines the groundwater monitoring wells, however, he discovers that one is clogged with debris. The well looks inoperable, and from his inspection of the records it is clear that no samples have been taken from this well in four months. The other three wells at the site are operable and there is no evidence of a leak. The operator has sloppy but generally good leak detection records.

Suggested Questions:

- 1) What action(s) should the inspector take?
- 2) How would field citation procedures in this situation differ from standard enforcement procedures?
- 3) What short-form wording is applicable to this situation?

Expected Outcome: Inspectors should discuss differences between standard enforcement and field citation procedures, and the instructor should point out the greater efficiency of field citations. Inspectors should be able to identify the violation(s).

SCENARIO IV-2

This scenario is an exercise in defining violations.

The inspector arrives at the site at which Ms. Olazabel is the owner and operator of four tanks. Three of the tanks are new and have secondary containment with interstitial monitoring. The inspector observes that the fourth tank, however, is older and appears to be unused. There is only a small amount of product in the bottom of the tank. The inspector asks Ms. Olazabel whether the tank is in service and she says that it has been temporarily out-of-service for six months. The inspector reminds her that the State UST Program must be notified of temporary closure and that the tank must be returned to service or removed or closed in place within a specified time period. He also notifies her that temporarily closed tanks must have all the lines disconnected except for the vent. Ms. Olazabel has also failed to pay her permit fee on all of the tanks. Ms. Olazabel says to the inspector, "Oh, just let me write a check right now and disconnect the lines while you're still here."

Suggested Questions:

- 1) Should the inspector issue a citation?
- 2) If so, what specific short-form wording(s) should be used?

Expected Outcome: The instructor should encourage the class to identify all violations and discuss what actions should be taken and why. The instructor should define the correct response to the situation in the scenario.

EPA's Office of Underground Storage Tanks

Short-Form Wordings List

An example of materials that could be used in conjunction with the Module IV discussion of making enforcement decisions.

This list contains short-form wordings of some of the Federal technical UST standards. A list such as this one will:

- Assist the instructor in explaining and demonstrating short-form wordings for the program;
- Aid instructors in demonstrating clear-cut and non-clear-cut violations;
- Give inspectors practice in identifying violations that are appropriate for field citations;
- Help inspectors define violations; and
- Provide practice for inspectors in filling out citations (they should be asked to choose one of the violations to cite in a scenario).

SELECTED SHORT-FORM WORDINGS OF FEDERAL REGULATIONS

The following sample short-form wordings for field citations were developed from selected sections of the Federal UST regulations. The wordings below provide an example of how a program may develop short-form wordings for its own regulations. These short-form wordings are not developed from an exhaustive list of all sections of the Federal UST regulations, but from several sections of the Federal regulation that provide a variety of possible violations that could be enforced using field citations.

| Regulatory Citation | Violation |
|------------------------|-----------|
|------------------------|-----------|

280.20 Performance standards for new UST systems

| | |
|--------------|---------------------------------|
| 280.20(a)(2) | No cathodic protection for tank |
|--------------|---------------------------------|

| | |
|--------------|-----------------------------------|
| 280.20(b)(2) | No cathodic protection for piping |
|--------------|-----------------------------------|

| | |
|-----------|----------------------------|
| 280.20(c) | No spill prevention system |
|-----------|----------------------------|

| | |
|-----------|-------------------------------|
| 280.20(c) | No overfill prevention system |
|-----------|-------------------------------|

280.22 Notification requirements

| | |
|-----------|---|
| 280.22(a) | Failure to notify agency within 30 days of bringing UST system into use |
|-----------|---|

| | |
|-----------|---|
| 280.22(c) | Failure to identify all USTs on notification form |
|-----------|---|

| | |
|--------------|--|
| 280.22(e)(1) | Failure to certify on notification form that UST system was installed properly |
|--------------|--|

| | |
|--------------|---|
| 280.22(e)(2) | Failure to certify on notification form that UST system is cathodically protected |
|--------------|---|

| | |
|--------------|--|
| 280.22(e)(3) | Failure to certify financial responsibility on notification form |
|--------------|--|

| | |
|--------------|---|
| 280.22(e)(4) | Failure to certify proper release detection use for UST system on notification form |
|--------------|---|

| | |
|-----------|--|
| 280.22(f) | Failure to provide installer certification of compliance with installation requirements on notification form |
|-----------|--|

| | |
|-----------|---|
| 280.22(g) | Failure to notify purchaser of UST system of notification requirements. |
|-----------|---|

280.30 Spill and overfill control

| | |
|-----------|---------------------------|
| 280.30(b) | Failure to report a spill |
|-----------|---------------------------|

| | |
|-----------|-------------------------------|
| 280.30(b) | Failure to report an overfill |
|-----------|-------------------------------|

| | |
|-----------|--------------------------------|
| 280.30(b) | Failure to investigate a spill |
|-----------|--------------------------------|

| | |
|-----------|------------------------------------|
| 280.30(b) | Failure to investigate an overfill |
|-----------|------------------------------------|

| | |
|-----------|-----------------------------|
| 280.30(b) | Failure to clean up a spill |
|-----------|-----------------------------|

| | |
|-----------|---------------------------------|
| 280.30(b) | Failure to clean up an overfill |
|-----------|---------------------------------|

SELECTED SHORT-FORM WORDINGS OF FEDERAL REGULATIONS (continued)

| Regulatory Citation | Violation |
|--|---|
| 280.31 Operation and maintenance of corrosion protection | |
| 280.31(a) | Failure to properly operate and maintain corrosion protection system |
| 280.31(b)(1) | Failure to properly test corrosion protection system |
| 280.31(c) | Failure to properly inspect impressed current cathodic protection system |
| 280.31(d) | Failure to maintain records of cathodic protection inspections or testing |
| 280.33 Repairs allowed | |
| 280.33(d) | Failure to have repaired UST system tightness tested as required |
| 280.33(e) | Failure to test UST system cathodic protection system within 6 months of repair |
| 280.33(f) | Failure to maintain repair records for operating life of UST |
| 280.40 General requirements for all UST systems (Release Detection) | |
| 280.40(a) | Failure to provide adequate release detection for UST system |
| 280.40(b) | Failure to notify agency of indicated release |
| 280.40(c) | Failure to provide adequate release detection by phase-in date |
| 280.41 Requirements for petroleum UST systems (Release Detection) | |
| 280.41(a) | Failure to monitor tank for releases as required |
| 280.41(b) | Failure to use approved release monitoring method for piping |
| 280.45 Release detection recordkeeping | |
| 280.45(a) | Failure to maintain records of release detection monitoring |
| 280.45(b) | Failure to maintain results of a sampling, testing, or monitoring as required |
| 280.45(c) | Failure to retain record of calibration, maintenance, and repair of release detection equipment |

**SELECTED SHORT-FORM WORDINGS OF FEDERAL REGULATIONS
(continued)**

| Regulatory Citation | Violation |
|--|--|
| 280.52 Release investigation and confirmation steps | |
| 280.52(a) | Failure to conduct tightness test(s) to investigate suspected leak(s) |
| 280.52(b) | Failure to examine and measure an UST site for suspected leak(s) |
| 280.70 Temporary closure | |
| 280.70(a) | Failure to operate and maintain corrosion protection in a temporarily closed UST system |
| 280.70(a) | Failure to operate and maintain release detection as required in a temporarily closed UST system |
| 280.70(b)(1) | Failure to leave vent lines open and functioning during temporary UST closure |
| 280.70(b)(2) | Failure to cap and secure all UST related equipment for temporary closure |
| 280.72 Assessing the site at closure or change-in-service | |
| 280.72(a) | Failure to measure for the presence of a release before a permanent closure |
| 280.74 Closure Records | |
| 280.74 | Failure to maintain proper closure records |

MODULE V:

PROCEDURES FOR ISSUING CITATIONS

Desired Outcome for the Module:

Inspectors will understand correct procedures for issuing field citations

Inspectors will know when and where to issue citations

Inspectors will realize the importance of accuracy

Inspectors will know how to handle mistakes

Teaching Aids: Scenario for Defining Violations and Whom to Cite

Scenario for Using Field Citations

Copy of a field citation (use local form, if available)

Approximate Time: 1 hour and 15 minutes

V. PROCEDURES FOR ISSUING CITATIONS

A. Overview of Module

1. Procedures for issuing citations
2. Procedures for filling out citations
3. Importance of accuracy and completeness

B. Identifying the Owner or Operator

1. To whom can citations be issued?
 - a. Owners, if known and readily available, should be issued citations
 - b. Operators (managers) on site at facilities should be issued citations if owners are not available
 - c. Any persons on site can be issued citations if owner or operator is not available (search for someone with authority first)
 - 1) Persons with whom inspectors have held an opening conference and explained the purpose of the visit
 - 2) Persons in charge of business operations at the time of the inspection
 - 3) Whoever is on site at the time of the closing conference
2. "Owners or operators"
 - a. Property owner
 - b. Owner of the business
 - c. Manager of the business, if manager runs business in the place of the actual property or business owner

The tone of training changes slightly at this point. The emphasis shifts from a general explanation of the program to specific instructions for the inspectors about procedures. The language in the manual shifts to direct instructions to the class; the instructor may wish to change language as well ("Make sure you do this..").

Section B addresses the question "To whom do I issue the citation?" Go over jurisdiction-specific policies regarding identification of the owner or operator and correct citation recipients. This is important if inspectors must record the name of the owner or operator on citations. It may be that any person on site can be issued a citation and the name/signature of the owner or operator is not necessary for the citation. It also may be possible to post the citation somewhere on site without a specific person receiving it. Make this clear to the inspectors. [The phrase "owner or operator" is used throughout this manual to designate the citation recipient or the person on site at the time of the inspection. This may mean the owner, manager, facility supervisor, attendant, etc.]

C. When to Issue Citations

1. If there is someone on site available to speak with, hold an opening conference before the inspection begins
 - a. Explain that there is a new enforcement program and you now have the authority to issue citations
 - b. Stress that the new program does not mean that the regulations have changed, only the method of addressing violations
2. If there are no violations on a site, do not say "there are no violations," merely say "no violations are detected at this time"
3. If there are violations addressable with citations at a site, issue the citation after the inspection, during a closing conference
4. Issue the citation after you leave the site, from the office, if unsure about violations or if the persons on site are belligerent or angry
 - a. Do not leave the site without explaining to persons on site that a citation will be issued
 - b. Do not leave the site allowing the persons on site to believe that nothing was wrong at the site

D. Filling in the Blanks**1. Specific information**

- a. Date
- b. Time
- c. Violation(s) - short-form wording(s) and appropriate code section(s)
- d. Name and address of facility
- e. Name and address of owner or operator
- f. Inspector's name and identification information
- g. Hearing or court date, if inspector is required to set one on site
- h. Inspectors' informal conference date, if necessary
- i. Reinspection date, if inspectors are required to set them when issuing citations

2. Signature of persons on site

- a. Attempt to get an appropriate person on site to acknowledge receipt of the citation by signing it
- b. Emphasize to persons on site that signing citations is not an admission of guilt, it is simply an acknowledgement that the citation was received
- c. If persons on site refuse to sign, avoid a confrontational situation
 - 1) Check records back at the office to determine if there is someone else to whom the citation can be issued
 - 2) Citations can be posted on the premises (if you have a camera, take a picture of the posted citation)
 - 3) Call supervisors to get advice on how to proceed

Mock copies of citations should be distributed before discussing Section D and inspectors should follow along on the citation. It is important to emphasize what information your program must have for a valid citation. Make sure that the inspectors are involved and not simply listening to your instructions. Some programs may not require inspectors to complete and issue citations themselves, but inspectors may need to collect information at the site (e.g., exact name and address) so that administrative staff may complete citations later. When addressing the issue of getting a signature from someone on site, stress whether it is necessary and who it must be. Explain what inspectors should do if they are required to get a signature and persons on site refuse.

Use an overhead copy of the field citation to refer to specific sections. The overhead can be "filled in" as you go through the explanation.

3. Complete the citation legibly and in pen, and be certain that information goes through to each copy in multi-copy citations
4. Check the citation for completeness and accuracy
5. Provide the owner or operator with the appropriate copy of the citation
6. If using introductory warning citations, follow all procedures correctly
 - a. It is important to the evaluation of the program for inspectors to be thorough
 - b. Inspectors should not develop a relaxed attitude about citations

E. Recording Hearing Dates on the Citation

1. Brief overview of local appeals process
2. Local procedures for setting hearing dates
3. Local process for scheduling informal conferences

F. Accuracy

1. Inaccuracy may invalidate citations
2. All sections of citation must be filled out accurately and thoroughly
3. Guesses should be avoided; get the correct information
4. Some information may be available from department records, check them before going on the inspection
 - a. Name and address of owner or operator
 - b. Permit/license number

If inspectors will be required to set hearing dates on site, explain the procedures in Section E. It will take some explanation to do this; give a brief overview of the appeals process and emphasize that there will be further details in Module IX.

G. Dealing with Mistakes

1. Mistakes will happen
 - a. Mistakes are expected within a new program
 - b. Do not refrain from using citations out of fear of making mistakes
 - c. Check and double-check citations to spot mistakes before issuing
2. Modifying a citation
3. Voiding a citation
4. Lost or damaged citations

In Section G, cover jurisdiction-specific instructions for how to deal with mistakes, stressing the fact that everyone makes mistakes and inspectors should not try to cover up or avoid dealing with mistakes.

There may be many questions about procedures and you should try to anticipate them, such as "what do I do if the owner or operator is not on site?" or "what do I do if the individual on site refuses to sign the citation and I am required to get a signature?"

Distribute several scenarios and ask the inspectors to fill out citations for the different situations. Or, hand out several incorrect citations and ask inspectors to spot flaws and describe how they would correct the citations. The following "teaching aids" section has examples of these exercises.

Module V: Teaching Aids

- Scenario for Defining Violations and Whom to Cite
- Scenario for Using Field Citations
- Field Citation Sample

SCENARIO V-1

This scenario is an exercise in defining violations and determining whom to cite. It introduces a complicated situation for the inspector.

The inspector arrives at Mr. Collier's gas station and convenience store to perform a routine inspection of the two tanks at the facility. The inspector discovers that the facility does not have a permit and issues a citation to the operator on site, Mr. Collier's brother-in-law, Mr. Laurel. After thirty days, the inspector returns to the site for a follow-up inspection. The facility still has no permit. The inspector discovers that there is a new operator on site, Mrs. Hardy. When the inspector explains the purpose of his visit and the fact that the facility was issued a citation a month ago, Mrs. Hardy becomes angry and claims that she does not know what the inspector is talking about. She states that she is the new manager and operator of the station and that neither Mr. Collier nor Mr. Laurel is associated with the facility in any way. To prove her point she shows the inspector documentation relating to the sale of the service station and records from the previous owner. Among these documents is the citation the inspector issued the previous month.

Suggested Questions:

- 1) What should the inspector do?
- 2) How should the inspector follow up this situation?

Expected Outcome: Inspectors should discuss situations in which the owner or operator has changed during the progress of an enforcement case. Another discussion may involve to whom citations should be issued to encourage response.

SCENARIO V-2

This scenario is an exercise in defining violations, determining when to use field citations, issuing citations, and using the short-form wordings. The inspector in this scenario has little information, and the delegation of responsibility for the tank facility is complicated. Use this scenario as practice in accurately filling out a field citation and as practice in deciding whether to proceed with formal enforcement or whether to issue a citation.

The inspector is making her first inspection of a large public school district's bus garage. The bus garage holds over 250 buses. It has two USTs over 25 years of age with approximately 5,000 gallons of capacity; one stores gasoline and the other diesel fuel. There is also one smaller UST that holds less than 800 gallons of heating oil. The heating oil is used to heat the facility and is not sold commercially. Due to budgetary restrictions the school district recently laid off a large number of staff, including the former operator of the bus garage. Sam Dymowski, a former clerk for the district custodial staff who has no experience in operating the bus garage, became the new operator two months ago. The inspector asks Sam to show her around the facility. The first thing she notices is that there is no spill or overfill protection installed on any of the tanks. After she completes her inspection she asks for the tank records. Mr. Dymowski gives her the tank fill receipts from the last two years, tank and line tightness tests, and inventory control records on the larger tanks. While the tank and line tightness tests for the gasoline and diesel tanks are up-to-date and do not indicate a leak, inventory control records are spotty. The volume of product delivered and the amount dispensed are reconciled on the inventory control sheet for some months, but not for all. Mr. Dymowski explains that he has "just guessed" how to perform monthly reconciliation for the past few months because no one taught him how to do it properly. The inspector's perusal of the facility's records verifies Dymowski's statement that the owner of the garage and the tanks is the district school board.

Suggested Questions:

- 1) What is the first action that the inspector should take?
- 2) Should the inspector initiate formal enforcement procedures or issue field citations?
- 3) How should the inspector proceed with the inspection? Must she first acquire complete records? Should she try to contact other parties?

Expected Outcome: Inspectors should go over the procedures for an inspection and be able to define the violations. Inspectors should also discuss what mistakes could be made in this circumstance.

EPA's Office of Underground Storage Tanks

Field Citation Sample

A copy of the program's field citation (front and back) could be used in conjunction with the Module V discussion of procedures for completing citations. The handout will be especially effective if the citation is presented as an overhead for reference along with handouts for the inspectors. The instructor can ask the students to fill out the handout citation and then demonstrate the correct way to complete the form by filling in the blanks on the overhead.

SAMPLE FIELD CITATION

FRONT SIDE

Department of _____ (1)
Office of _____ (2)

State seal

**NOTICE OF VIOLATION OF
UNDERGROUND STORAGE TANK REGULATIONS**

On _____ (Date of Violation) Time _____ a.m. p.m.
At _____ (Name of Facility)

(Address of Facility)

Name of Owner or Operator _____
(circle one)

Facility ID Yes No

Facility License/Permit No. _____

As the owner or operator of the above mentioned facility, you have been charged with violation of the _____ (3). You must indicate below for each violation listed whether you admit the violation, admit the violation with an explanation, or deny the violation. You have the right to request a hearing.

| Code (4) | Regulation (5) | \$Fine (6) |
|--|----------------|------------|
| Nature of violation _____ (7) | | |
| <input type="checkbox"/> Admit <input type="checkbox"/> Admit with explanation <input type="checkbox"/> Deny | | |
| Code (4) | Regulation (5) | \$Fine (6) |
| Nature of violation _____ (7) | | |
| <input type="checkbox"/> Admit <input type="checkbox"/> Admit with explanation <input type="checkbox"/> Deny | | |

Total fine applicable to the above violation(s) \$ _____ (8)

WARNING: If you do not pay the required fine or request a hearing or an adjudication by mail (see reverse side) within _____ (10) days of service of this notice, you will be subject to the maximum penalties permitted by law, and suspension of your license/permit. The fine will double if payment has not been received within _____ (11) days.

I personally observed or investigated the violation(s) as noted above.

(Inspector's signature) ID No. _____

I hereby acknowledge receipt of this Notice of Violation

(Signature of Owner or Operator)

BACK SIDE

YOU ARE REQUIRED TO RESPOND TO THIS NOTICE OF INFRACTION WITHIN _____ (10) DAYS OF THE DATE OF SERVICE TO AVOID BEING ASSESSED A PENALTY EQUAL TO THE AMOUNT OF THE ORIGINAL FINE. YOU MUST RESPOND IN ONE OF THE FOLLOWING WAYS

TO PAY THE FINE AND WAIVE YOUR RIGHTS TO A HEARING:

- Check the "Admit" box under the violation listed on the reverse side.
- Certify that the violation has been corrected by signing below:
- Make personal check, cashier's check, or money order payable to _____ (1) (no cash by mail)
- Print notice number on the check or money order
- Enclose payment with this notice and mail to:
- Department of _____ (1)
- Office of _____ (2)
- Address _____

TO ADMIT THE VIOLATION WITH AN EXPLANATION:

- Check the "Admit with Explanation" box under the violation listed on the reverse side
- Certify that the violation has been corrected by signing below
- Check the appropriate box to request a hearing, choose one of the following methods:

HEARING To request a hearing, choose one of the following methods:
(a) Mail the completed notice to the Office of _____ (2) at the above address; or
(b) Appear in person or by authorized representative at the Office of _____ (2) address between the hours of _____ (13)

ADJUDICATION BY MAIL: Mail the completed notice to _____ (2) at the above address, along with all evidence relevant to your explanation. Failure to submit sufficient evidence of mitigating circumstances may result in failure to qualify for a reduced or suspended fine.

TO DENY THE VIOLATION:

- Check the "Deny" box under the violation listed on the reverse side, and:

HEARING: (a) Mail this completed notice to the Office of _____ (2) at the above address; or
(b) Appear in person or by authorized representative, at the hearing office located at _____ (address) between the hours of _____ (13)

You will be scheduled for a hearing and notified of the time, date, and location of the hearing.

You must complete and sign this certification

Name (print) _____ (14)
Street address _____ (15)
City _____ State _____ Zip code _____

I hereby certify under penalty of law, that I have received this notice, answered as indicated on the reverse side, and corrected or made substantial efforts to correct the infraction(s) that I have admitted or admitted with an explanation.

Signature _____ (16) Date _____

MODULE VI:

FOLLOW-UP TO ISSUING CITATIONS

Desired Outcome for the Module:

- Inspectors will know procedures for handling citations and administrative details
- Inspectors will be able to answer questions from owners or operators
- Inspectors will understand that follow-up to issuing citations is important

Teaching Aids:

- Questions for Role Play
- Scenario for Defining Inspector's Role
- Scenario for Use of Informational Contact Materials

Approximate Time: 1 hour

VI. FOLLOW UP TO ISSUING CITATIONS

A. Overview of Module

1. Inspector obligations after issuing citations
2. Delivery of citations
3. Procedures for post-inspection paperwork and follow-up

B. Ensure that the Owner or Operator Understands the Process

1. Ask questions
 - a. "Do you understand what I'm citing you for?"
 - b. "Do you understand what you must do now?"
 - c. "Any questions?"
2. Distribute and explain outreach materials, especially if using introductory warning citations
 - a. Outreach materials and explanations of process are likely to make the inspectors' jobs easier in the long run
 - b. Outreach materials explain the entire process to owners or operators so that inspectors are not held responsible for incorrect information
 - c. Outreach materials should list a number that owners or operators can call for further information and clarification
3. If necessary, explain procedures for hearings, informal conference, or appeal
 - a. Explain clearly to the owner or operator the right to request hearing/appeal/conference
 - b. If a date has been set on site, remind the owner or operator

Group exercises or discussions may be helpful to emphasize the information in Sections B and C. You should explain the procedures for appeal and administrative processes as you cover the information. Stress the distinction between standard enforcement and field citations, and what actions will be taken for standard enforcement.

Distribute local outreach materials and self-certification forms, if available, during these sections.

- c. Explain the purpose of the hearing/appeal/conference
 - 1) Allows owner or operator to explain or ask questions
 - 2) Does not imply that penalty will be reduced or eliminated or that violation does not need to be corrected
- d. Do not encourage the owner or operator to request a hearing or not to; explain the procedures in simple ("plain English") terms
- e. Make the owner or operator aware that the inspector will not be responsible for the final decision
- 4. Explain what the citation does not do
 - a. Does not waive responsibility for continuing to comply with regulations
 - b. Does not preclude other enforcement actions at a later date
- 5. Stress that payment of penalty does not eliminate responsibility for correcting the violation!
- 6. Set a reinspection date, if necessary
- 7. Explain process for self-certification of compliance, if necessary
 - a. Give owner or operator forms for self-certification
 - b. Explain that self-certification is taken seriously by program administrators
 - c. Explain that reinspection could occur at any time
- 8. Explain process for standard enforcement, if necessary
 - a. If violations at the site are not covered under the field citation program, the distinction between the two types of enforcement strategies should be explained

- b. If violations at the site require both citations and standard enforcement, explain the relationship and the two sets of responsibilities

C. Distribute "Helpful" Information

1. DO NOT provide specific technical assistance (the Agency can be held liable for any incorrect information provided by inspectors)
 - a. Do not advise the owner or operator on methods to correct the violation
 - b. Suggest that the owner or operator call program supervisors or a contractor for help
2. Provide the owner or operator with a list of contractors, if available
 - a. Make it clear that the list is not an endorsement
 - b. Do not recommend one contractor over another
3. Provide only correct information
 - a. Do not provide any information that you are not certain of
 - b. If you are not sure, say "I don't know and I'll follow-up or you can contact.."

D. Options for Delivery of the Citation

1. Hand deliver on site
 - a. Hand directly to individual on site
 - b. Post on office door or window
2. Mail from office
 - a. Regular post
 - b. Certified mail
 - c. Registered mail
3. Delivery from office by administrators

Distribute any informational contact materials your inspectors will use in the field (contractor lists, copies of the technical regulations)

E. Processing the Citation

1. The Agency must have the proper materials for processing of the case
 - a. Closing out the case
 - b. Tracking timely payments of penalty or correction of violations
 - c. Handling appeal or hearing requests
2. Distribute citation copies to appropriate staff
 - a. Owner or operator
 - b. Administrators
 - c. Inspector
 - d. Legal staff

F. Paperwork

1. Remember follow-up paperwork
 - a. Inspection reports
 - b. Field log-book
2. Complete paperwork promptly
 - a. Prepare paperwork as soon as possible
 - 1) If paperwork is not prepared promptly, inspectors may forget important details
 - 2) Inspection reports are an important element in an enforcement case
 - 3) Good records make easy cases
 - b. Turn in all paperwork within deadlines

Section E concerns what inspectors should do with citations; add jurisdiction-specific information. Stress that processing the citation is as important as issuing it.

Section E is essential because an inspector's actions after issuing a field citation can make the situation easier for the inspector, administrators, and the owner or operator. It is important to make sure that inspectors understand the procedures and know best how to answer questions. [Handling difficult situations, or irate owners and operators, is covered in Module X.] You may want to summarize exactly what the inspector should and should not tell the owner or operator, and what owner or operator procedures are for hearings or appeals. Asking specific questions to the inspector, as in Sections B and C, may be a helpful approach.

For Section F, hand out samples of paperwork inspectors will need to complete.

Module VI: Teaching Aids

- Questions for Role Play
- Scenario for Defining Inspector's Role
- Scenario for Use of Informational Contact Materials

DISCUSSION QUESTIONS/ROLE PLAY

You may want to question the inspectors using typical owner or operator questions to allow them to practice responding. This could also be an excellent role play exercise if the class is comfortable with "performing" in front of peers. Role plays can be done in small groups or with the group as a whole. Describe a situation in which a citation has been issued, ask one inspector to play the owner and another the inspector. After the role play, engage the class in discussion about how each would have responded. You should encourage the inspectors to ask each other questions like the following:

"If I go to a hearing, will the penalty be reduced?"

"Do I have to respond to this citation even though the department will issue me an administrative order for other violations?"

"Will you show me exactly what I have to do to put in a monitoring well?"

"Which contractor should I use for this job?"

Expected Outcome: Inspectors should practice responding to typical owner/operator questions such as these and be comfortable with the answers that they should give.

SCENARIO VI-1

This scenario is meant to help define the role of inspectors in the field citation program. The scenario is designed to introduce discussion of constraints on providing technical information to owners or operators.

A new inspector, Joe Thursday, has completed an inspection at the local "mom and pop" service station which has two tanks over 25 years old. Thursday has found that a leak detection device is not installed properly on one tank and is not operating correctly because of improper installation. The inspector decides to cite the owner. Pop, the owner, tells the inspector that he is willing to sit down with him to discuss the citation. Pop produces a sheet of paper from a reputable local firm that he describes as a work order on the same problem, but on another tank. Pop shows the inspector the work order and asks him if the work described is the same type needed to be performed on the tank in violation.

Suggested Questions:

- 1) What should the inspector do in this situation?
- 2) What specific advice should the inspector provide to the owner?

Expected Outcome: Inspectors should discuss whether to provide technical advice to owners or operators, and how to answer questions of this type from owners or operators.

SCENARIO VI-2

This scenario demonstrates the use of informational contact materials.

The inspector is performing a routine inspection at a small gas station where Mr. Johnson is the operator. During the inspection, she discovers that Mr. Johnson does not have release detection installed on the 7,000 gal tank which is 27 years old. He does perform manual tank gauging on his 1,000 gal tank. The inspector issues a citation to Mr. Johnson, who, although not particularly pleased, accepts it. Johnson has already spoken to other owners and operators and read material on different release detection methods. He has decided to use tank tightness testing and inventory control for his 7,000 gal gasoline tank. The inspector then gives Mr. Johnson a list of contractors who can help him to install the proper leak detection. Mr. Johnson scans the list of contractors and then says "I see that Robert Robertson is on this list. I've heard that he does a really terrible job and that is really expensive - haven't you heard that too? Who do you recommend for the job? Which contractors do the kind of work that I need?" The inspector is aware of Mr. Robertson's reputation, but knows that Tank Tight, Inc., another local firm does accurate and fairly priced work.

Suggested Questions:

- 1) What is the best response for the inspector?
- 2) What kind of advice should the inspector provide?

Expected Outcome: Inspectors should learn to be wary of questions that request a technical opinion or advice on contractors.

MODULE VII:

LEGAL EVIDENCE NEEDS

Desired Outcome for Module:

- Inspectors will understand what constitutes evidence in an enforcement case
- Inspectors will know how credibility is established in an enforcement case
- Inspectors will know the procedures for report writing and submitting reports

Teaching Aids:

- Exercise on Report Writing
- Photography Tips
- Tips on Using Statements as Evidence
- Tips on Developing Drawings and Maps
- Guidelines for Writing Inspection Reports
- Tips on Official Files

Approximate Time: 1 hour and 30 minutes

VII. LEGAL EVIDENCE NEEDS

A. Overview of Module

1. Definition of evidence
2. Importance of evidence
3. Procedures for documentation of evidence
4. Overview and guidelines for writing inspection reports

B. What is Evidence?

1. Evidence is the means or process by which any matter of fact investigated (i.e., the existence of a violation) may be established or disproved
 - a. Testimonial evidence: person's reported sense impressions and opinions
 - b. Real evidence: object or thing itself (e.g., contaminated dirt)
 - c. Documentary evidence: document having significance as a result of its content
 - d. Demonstrative evidence: something prepared or selected to illustrate or make a relevant fact clearer (e.g., photographs, diagrams drawn of sample extraction, maps)
2. Evidence includes matters which are not disputed and are accepted by judge or administrative hearing official (e.g., scientifically accepted testing devices, geographic location, matters of common knowledge)
3. Testimonial evidence will likely introduce all other types into evidence
4. Evidence is critical for support of the Agency's case
5. Inspector should record all relevant information as evidence of the alleged violation

You may wish to have your department's attorney teach this Module or help you to plan the instruction. In this section you should explain that evidence is important for any enforcement case, whether expedited or standard enforcement is used. At the very least, inspectors may be required to testify at hearings or informal conferences for certain cases and the inspectors need to be prepared to discuss the cases to prove that there were violations.

C. Why is Proper Evidence Important?

1. Evidence is necessary for any case in order to document the alleged violation
2. Evidence is important in case the inspector is issuing a warning and intends to follow up and cite if violation is not corrected
3. Evidence is necessary for future case development (in case the violation is not corrected after citing and the Agency needs to take stronger action)
4. Inspector may have to present evidence
 - a. Informal conferences
 - b. Hearings before an administrative law judge (ALJ)
 - c. Appeals hearing
5. Physical evidence and documentation make a stronger case and makes it less likely that a case will be lost
6. Physical evidence and documentation demonstrate that the inspector performed the job efficiently and correctly, developing further credibility as a witness
7. Establishing credibility in one case makes the inspector's reputation better for future cases

D. Evidence Establishes Credibility for the Inspector

1. Evidence documents an inspector's story in court or in a written record and reinforces credibility as a witness/expert

Distribute handouts from the "teaching aids" section on photography, drawings and maps, statements as evidence, official files, and inspection reports as appropriate.

E. Authenticity, Relevance, and Foundation of Evidence

1. Evidence must be authentic and relevant
2. Inspectors should follow specific guidelines for evidence reports
 - a. Describe site conditions and elements
 - b. Note discovery location of the item.
(Note what was collected at a particular place at a particular time)
 - c. Record general identity or sameness
 - d. Record measures taken at the time to ensure later identification of the item
 - e. Note conditions or features that vary; features or conditions of the item may vary from what was collected by the time they are viewed as evidence (at trial, for example) (e.g., less material in sample bottle)
 - f. Note chain of custody path, if known

Show overhead of model notes (local materials).

F. Proper Documentation of Evidence

1. Inspectors must take notes in the field
 - a. Notes are necessary for the enforcement case
 - b. Refer to notes to refresh memory during informal conferences, hearings, court
 - c. Remember that it is difficult to win a case without notes
2. Photographs
 - a. Photographs may be required at UST sites in order to document an enforcement case
 - b. Photos should fairly and accurately document the site

- c. Logbook should indicate when, where, and of what photos were taken, along with the date, time, and your name.
 - a. Note where you were standing when you took photograph
 - b. Note the direction you were facing when you took the photograph
- d. Date, time, location, and your name should be written on back of photo (unless automatic date camera is used)
- e. Negatives should be kept, envelopes labeled and easy to locate

G. Field Reports on Inspection Findings

- 1. Inspection reports present a factual record of an inspection
- 2. Well-written reports create an impression of a well-conducted inspection. Try to keep the notes in chronological order to establish a pattern
- 3. Reports must be complete and accurate, as they provide the basis for potential enforcement actions
- 4. Material should be gathered into a comprehensive report
 - a. Factual - verifiable result of first-hand knowledge
 - b. Relevant - information should be pertinent to the subject of the report
 - c. Coordinated - all information should be gathered into a complete package
 - d. Objective - the report should be factual and not draw conclusions from the material
 - e. Neat and legible - proper use of English

5. Certain information should be contained in all inspection reports, narrative or otherwise
 - a. Specific reason for the inspection
 - b. Who participated in the inspection
 - c. Actions taken during the inspection, chronologically
 - d. Self-certification of compliance with all procedural and legal requirements
 - e. List of statements, records, physical samples and other evidence obtained during the inspection
 - f. Record of observations made during the inspection
 - g. Result of any sample analysis
6. Inspectors should keep several writing guidelines in mind when developing inspection reports
 - a. Relate only facts
 - b. Keep it simple
 - c. Keep the reader in mind
 - 1) Attorneys and judges
 - 2) Other program staff
 - 3) Violator or potential responsible party
 - 4) General public
 - d. Do not use unnecessary words or personal statements
7. File and submit reports properly

Module VII: Teaching Aids for Legal Evidence Needs

- Exercise on Report Writing
- Photography Tips
- Tips on Using Statements as Evidence
- Tips on Developing Drawings and Maps
- Guidelines for Writing Inspection Reports
- Tips on Official Files

EXERCISE

Distribute the attached sample report to inspectors or show it as an overhead. Give them ten to fifteen minutes to review the report and then lead a discussion on the report. Ask the inspectors the following questions and review the attached problem sheet with the class.

1. Does the report contain enough information to build an enforcement case?
2. What additional information is needed?
3. How would you improve the report?

Field Trip Report -- Tony's Service Station
Anytown USA
April 1, 1990

I arrived on site about 10:15 am. A crane was already on-site, and Mr. Jose Montoya (Johnson Construction) was pumping gasoline from the tanks which were to be excavated into the new tanks. I performed an entrance interview with Mr. Paul Pelosi and informed him that my goals were to inspect the tanks after excavation as well as to examine the excavation pit in order to determine which soils would need to be removed.

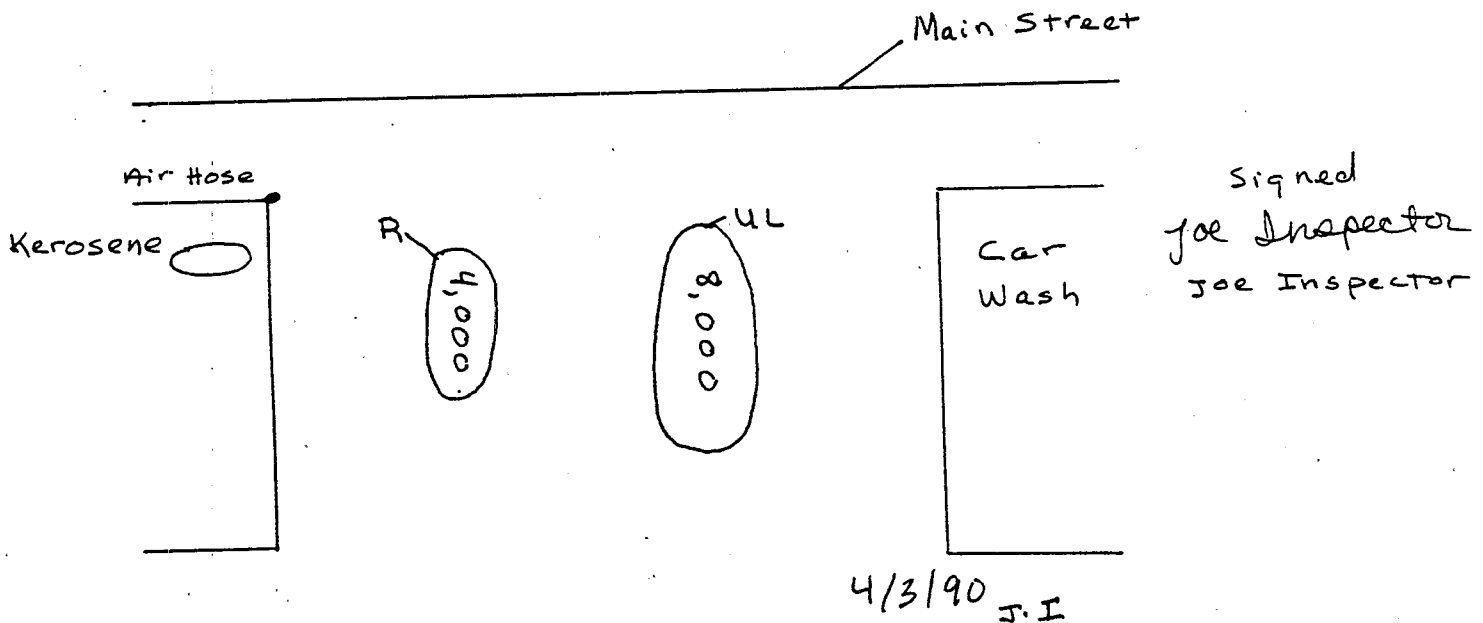
The 4,000 gallon unleaded tank was excavated by a crane and removed to a flat-bed trailer. Although Johnson Construction personnel attempted to remove most of the sand and dirt that was adhered to the tank by hitting the tank with a sledgehammer, the tank still had soil stuck to it. This made inspection for tank integrity difficult at best. A preliminary investigation did not reveal any holes, however, both tanks must be inspected again before a definitive statement regarding tank integrity can be made.

Black sand was noted at the west end of the excavation pit. The sand did not appear to be saturated, rather, it was highly contaminated and smelled like "weathered" gasoline. This soil was excavated after the second tank was removed.

The 8,000 gallon regular tank was excavated at about 12:30 pm. When this tank was hit with a sledgehammer, the metal "sounded" much thinner. Mr. Montoya said that he would be surprised if the tank did not have holes in it. Closer inspection revealed that the tank was sitting in approximately 1.0 to 2.0 feet of water, and some severe corrosion pits were evident. Both tanks were removed to Ms. Kathryn Buckley's property in Centerville, and are available for further inspection by contacting Mr. Pelosi.

All highly contaminated soils were removed from the trench and piled on asphalt next to the pit. These soils were then loaded onto an semi-truck and taken to a site that Mr. Pelosi claims was approved by the Department of Health.

I left the site at 3:15 after conducting an exit interview with Mr. Pelosi. I told him that the second tank (8,000 gallon) was not in as good a shape as the first tank that was pulled. I also told him that the Department of Health staff would like to inspect the tanks again at Ms. Buckley's property. I told Mr. Pelosi that Department of Health staff would be on-site to observe the excavation of the tank at the north end of the property next week.



Problems with Sample Field Report

- The report should give the name and address of the site.
- The map should give directions (north, south, east and west).
- The date on the report is different than the date on the drawing.
- The discussion of excavating old tanks into new in the first paragraph is confusing. It is difficult to determine what the inspector means. The passage should either be re-written to state clearly the inspector's observation or removed.
- Note this sentence from paragraph two: "Preliminary investigation did not reveal any holes, however, both tanks must be inspected again before a definitive statement regarding tank integrity can be made." This sentence should not be included in the inspection report. The inspector has no basis on which to draw this conclusion. If he is unable to draw a conclusion he should simply state this fact. The conclusion that there were no holes in the tanks could later undermine the case.
- The illustration lists the 4,000 gallon tank as holding regular gasoline and the 8,000 gallon tank as unleaded. Paragraphs two and four of the report, however, state that the 8,000 gallon tank holds the regular gasoline and the 4,000 gallon tank holds unleaded fuel.
- Grammatical errors make the report less creditable. Inspector should be certain that all grammar is correct.
- The report does not state if the inspector used anything other than a sniff test to determine that the soil smelled like "weathered" gasoline in paragraph three. The report should list any testing equipment that was used in the inspection.
- The tank remover's unsubstantiated statement in paragraph four that he, "would be surprised if the tank did not have holes in it," should not appear in the report. Again, the remover and inspector have no concrete basis upon which to make this statement.
- In paragraph four the inspector writes that when the tank was hit with the sledgehammer it "sounded" much thinner. This action and the statement could open the report up to the allegation that the sledgehammer's blows caused any holes later found in the tank. The inspector should not have used a sledgehammer and should not have included this statement in his report.
- The report states in paragraph four that the tanks were taken to a specific property. The inspector did not, however, actually see where the tanks went. Therefore the report should state that the inspector saw the tanks loaded on the truck and was told that they were being delivered to a certain site but did not actually see where the tanks were delivered.
- While it was correct for the inspector to include a record of his conversation with the owner or operator in paragraph six, he should have avoided stating that one of the tanks was in better shape than the other. His inspection was not thorough enough to make such a statement. He should have limited himself to telling the owner or operator of the procedures he was following and telling him what the next steps would be.

EPA's Office of Enforcement and Compliance Monitoring (OECM)

Photography Tips

To be used in conjunction with the Module VII discussion of types of evidence. If a program requires inspectors to take photographs of violations, the instructor may wish to present the information in this handout (as it is more detailed than the course text). The handout can be distributed during a detailed presentation or distributed as a future reference tool for inspectors (i.e., without presenting all of the material in the handout).

PHOTOGRAPHS

Seeing is believing! Since a judge and jury cannot be present on the inspection, the best way for them to see, and believe, what transpired is through photographs.

The enforcement of environmental law is dependent upon the effectiveness of inspectors as information-gatherers. Increasingly, photography has played an important role in that process. Photographs provide inspectors not only with visual documentation contributing to more accurate inspection reports, but also with evidence for enforcement proceedings and objective descriptions of conditions found at a facility.

Photographs are some of the best physical evidence, and the easiest to authenticate and therefore admit into evidence in court. The test is simply that the inspector has to say that any given photograph does "fairly and accurately represent" what the inspector saw on the date in question at the site in question.

When enlarged and placed in view in the courtroom, photographs can be the best means of duplicating what occurred months or years earlier during an inspection. Clear photos of relevant subjects, taken in proper light and at proper lens settings, provide an objective record of conditions at the time of the inspection. In this respect, photographs can be the most accurate demonstration of the inspector's observations.

Photographs can also be helpful to the field team during future inspections, informal meetings, and hearings.

For all its advantages, however, photography requires skill. The investment of time and materials in photography for the collection of evidence can be justified only by the quality and usefulness of the photographs. This section will assist the inspector in achieving the best photographic results.

Photographs as Evidence

Fair and Accurate Representation

Drawings, diagrams, maps, and plans have long been used as evidence of the buildings, lands, or machines they represent when the things themselves cannot conveniently be brought into court. Since the development of photography, photographs have generally been received as evidence on the same basis as maps and diagrams. It is essential to admissibility that the subjects which the photographs portray be relevant and material to the case. However, there must also be testimony that the photograph is a fair and accurate representation of the object or scene which it portrays. If the photograph is not a fair and accurate representation of the object or scene, even though the object or scene may be relevant and material, the photograph may not be admitted as evidence.

Prejudicial Photographs

The question of admissibility is determined by the judge according to rules of exclusion applicable to other types or kinds of evidence. However, because photographs are traditionally susceptible to subjective misinterpretations, the courts have exercised a broader discretion in disallowing them as evidence.

Even though a photograph may be a fair and accurate representation of a relevant and material matter, the judge may reject it if in his or her opinion it would be misleading or would not aid the jury in a better understanding of the facts. Such a photograph, otherwise admissible, will be rejected if the judge believes that it may create an undue prejudice in the minds of the jury. For example, color pictures of human death or injury that show quantities of blood and gore can create an emotional reaction in the viewer that is in excess of that warranted by the probative value of the evidence. Photographs may be excluded for that reason.

Authentication

The authentication of a photograph prior to its being received in evidence may be accomplished by any witness whose familiarity with the subject matter of the photograph allows him or her to testify that it is a fair and accurate representation of the object or scene it portrays. The testimony of the person who took the picture is not necessary. If the photographer is called as a witness, it is not enough to simply claim to have taken the photograph. The photographer must also be able to say that the picture is a fair and accurate representation of the object or scene.

It is the fairness and accuracy of the representation that is important. Unless the processes and techniques of picture-taking, developing, and printing are themselves relevant to the question of accuracy, the judge may take judicial notice of such processes and techniques. This was not true years ago when photographs were first offered as evidence, and judges often required the testimony of the photographer as an expert witness to authenticate all photographs. Today the general principles of photography are well known as applications of the natural laws, and they are appropriately the subject of judicial notice. Most courts now accept that the central issue is the fairness and accuracy of the representation.

The Right to Photograph

The right to inspect gives rise to the inherent right to document the inspection by means of photographs. Inspectors should take photographs of anything needed to complete the objectives of the inspection. (Inspectors are cautioned not to take pictures of the inspection team at work, however. All such photographs might be subject to discovery should an enforcement action be pursued, and could hurt the government's case if they show even a slight error.)

Attempts to Impose Conditions

Photography often draws a negative reaction from facility officials, who may seek to prevent or limit the use of cameras on facility property. EPA considers such efforts to restrict the taking of photographs as an attempt to impose unacceptable conditions on consent to enter. If facility officials do not withdraw these attempts voluntarily and without coercion, the inspector should consider it a denial of consent.

Before concluding that the proposed restrictions on photography constitute a denial of consent, the inspector may tactfully attempt to resolve any concerns or objections facility officials raise about the use of cameras. It may be prudent to go ahead with the inspection without taking photographs, raising the issue with facility officials again only if a particular photograph is essential to completing the objectives of the inspection. Inspectors should be aware of the sensitivities involved in photographs, and avoid taking unnecessary photographs of facility operations. Sometimes in water cases it has been effective to explain to the officials that waste streams, receiving waters, and wastewater treatment facilities are public information, not trade secrets. Moreover, photographs may be taken without consent from areas generally open to the public, both outside and inside a facility.

Confidentiality

Under some environmental statutes (e.g., TSCA), photographs may be subject to a claim of confidentiality. To avoid difficulties arising from TSCA confidentiality claims, it is recommended that all unnecessary background be shielded when photographs are taken, or the subject may be moved to another area. In TSCA cases it is recommended that instant cameras be used, because the photograph can be shown to facility officials immediately. If an instant camera is not used and a confidentiality claim is made, the film must be processed by a contractor authorized for access to TSCA confidential business information.

Even where TSCA confidentiality is not involved, inspectors may find some of these practices helpful in resolving attempts by facility managers to restrict photography. Shielding the background, moving the subject, and use of an instant camera are methods that may allay the managers' concern about trade secrets.

Tips on Taking Photographs

When taking photographs, the inspector should imagine how the photographs will look in a courtroom. Photographs should always be taken with a view toward how they can be used as evidence. If the subject is a barrel, make sure the barrel fills up the view finder. If the subject is a building and grounds, then back off to allow these to fit into the viewfinder.

The most useful photographs are those that convince the viewer he or she is actually seeing the thing the inspector saw. A good photograph requires no explanation except the time and place it was taken. The viewer will gain confidence in the photograph if it is sharply in focus and properly exposed. To achieve such photographs, the inspector should learn to use camera equipment well.

Before going on an inspection, the inspector should be sure all equipment is in good working order and that supplies of film and batteries are adequate. Film is adversely affected by extreme temperatures, and care should be taken to avoid unsuitable storage conditions, such as an overheated vehicle. A small cooler can be used to store film on long trips. Fresh batteries are important since the newer automatic cameras will not work without batteries.

All photographs can be evaluated in terms of three qualities: focus, exposure, and composition. Each will be discussed below.

Focus

Sharp focus is mandatory in any photograph to be used as visual documentation of investigative findings. Camera wobble or shake can blur photographs. Therefore, carefully release the shutter, don't suddenly jab it. For shutter speeds below 1/100 second, try to rest the camera against a car or building. The subject matter of investigative photography often involves more than one relevant item in the scene, and it is necessary for all items of importance to be clearly represented in the photograph. The inspector must therefore strive not only for sharp focus, but also for the maximum depth of field.

Depth of field is the zone of acceptable sharpness of image (e.g. from 10-12 feet from the photographer) in the field of view. It varies as a function with focus distance and lens aperture selected. The depth of field increases as lens aperture decreases (e.g., from f5.6 to f11). The depth of field relationship to focus distance and aperture selected is shown for any lens by the depth of field scale on the lens barrel.

To minimize problems with a narrow depth of field it may be useful to use a higher ASA film (e.g., 400) so that a smaller lens aperture (f8-11) can be used.

Exposure

The most accurate way to determine exposure is through use of a light meter. Most 35mm cameras have built-in light meters. Without a light meter, the photographer must estimate the correct exposure from the sunlight available and film speed used. The film boxes generally suggest camera settings for various lighting conditions. It is always a good idea in all cases to take a series of photographs, using different settings each time (bracketing exposures).

Good exposure can usually be made on the high-speed films currently available. However, it may be necessary in certain situations to provide additional light by means of a flash. Flashbulbs or electronic flashes are used for this purpose. Now electronic cameras and flashes make "fill-in" flash relatively easy. The exposure and shutter speed for taking photographs with flash lighting (whether at night or "fill-in" flash during the day) is determined by referring to the tables in the data sheet accompanying the film, or on the flashbulb box, or in the instructions on the electronic flash unit. Camera exposure will also be influenced by extremes of white, black and by how much the main subject fills the viewfinder. If you want proper exposure for a subject, it should fill the viewfinder with little back light or other bright or dark objects to fool the light meter. Open the lens aperture 1 or 25 steps (f8 to 5.6) for white objects and close the lens (5.6 to 8) for black objects.

Composition

The effectiveness of any photograph as evidence is strengthened by careful arrangement of the elements in it. Here again the inspector should imagine how the picture will look on a final print. The composition is effective if the picture tells its story with a minimum of explanation.

Composition is largely a matter of personal judgment, but there are several guidelines that should be followed:

- Center of Interest - There should be only one major subject or center of interest in a scene. When taking the photograph, the inspector should eliminate or subordinate all secondary elements and focus on the main element. Be sure the subject actually fills the viewfinder.
- Simple Background - The background should be kept simple, so as not to distract attention from the main subject.
- Scale - If the subject is unknown or unfamiliar to viewers, the inspector should include some familiar object to indicate comparative size (e.g., a person, a car).
- Location or context - It is sometimes useful to photograph a subject from a point where the location of the subject will be clear in relation to other features.
- Motion - If action or movement is implied in the photograph, more space should be allocated in the direction of the action than away from it.
- Tones - If shooting in color, make sure the subject is tonally distinct from the background. The same applies to black and white, except imagine how tones will look when reduced to gray.

Documenting Photographs

In order for photographs to be entered as evidence, EPA must be able to authenticate that they fairly and accurately represent what the inspector saw at a given facility on a given date. (The inspector need not have taken the photo him- or herself, but must be able to testify that the photo "fairly and accurately" represents what he or she saw.) Documentation of information about how, when, and where the photograph was taken will aid in the authentication process.

An effective means for documenting photographs is keeping notes in chronological order in the field logbook about the pictures that are taken. Some inspectors keep a separate photo log in addition to notes in the logbook. Notes in the field logbook can be used to help refresh the witness' memory prior to testifying in court.

Even if the inspector does not remember what it is that the picture portrays, so long as he or she wrote these notes and can state that they are somehow connected with the picture, that information alone is enough to say that the picture does fairly and accurately represent what he or she saw on the day in question.

When an instant camera is being used, notes should be recorded on the back of each photograph, cross-referenced to the field logbook.

EPA's Office of Enforcement and Compliance Monitoring (OECM)

Tips on Using Statements as Evidence

To be used in conjunction with the Module VII discussion of types of evidence. This handout is available to provide supplementary information to the student. The instructor may use it as he or she sees fit.

STATEMENTS AS EVIDENCE

Oral or written statements obtained during an inspection are generally admissible in court under exceptions to the "hearsay evidence" rules. Statements made by a company employee is an example. Even when statements made during an inspection interview are not admissible, statements are still useful for cross-examination purposes or to develop leads for investigation.

- Criminal investigations. While most EPA inspectors do not normally become involved in criminal investigations, note that even statements obtained at the scene of a criminal investigation during the execution of a warrant are legal. The Fifth Amendment privilege against self-incrimination applies only to in-custody interrogation. It is not necessary to read rights prior to asking questions of a witness who is not in custody.

Documenting the Interview

A written record should be made of each interview. As applicable in the particular circumstances, this may be in the form of an affidavit, a verbatim record of questions and answers, unsworn statements, or informal notes. Some people are inhibited by the sight of an inspector taking notes, while others may feel that the inspector's failure to take notes indicates a lack of interest in them and in what they have to say. In the final analysis, the inspector must evaluate the individual in each interview to determine the correct approach.

Notetaking

It is important to take accurate field notes; however, it is equally important that the notetaking or documentation process be unobtrusive and not interfere with the interview process.

If the interviewee's pace is too fast, wait for appropriate breaks in the conversation and "backtrack" by reviewing salient points. Try slowing the conversation by deliberately slowing the delivery of questions. Experts have found that when a strong rapport is established between two individuals engaged in conversation, the pace of one influences the other. Only as a last resort should the inspector ask the interviewee to slow down a bit. Keep in mind that such a request, no matter how reasonable, asks the interviewee to abruptly change pace and usually tends to dampen somewhat the enthusiasm that is causing the heightened speed of the conversation. Avoid frequent interruptions or asking for an answer to be repeated.

If two inspectors are present, a useful technique is for one to ask questions and the other to take notes. This approach also avoids any potential for lost credibility because of differences in inspectors' notes.

Use of Tape Recorders

Inspectors frequently ask whether or not they can use tape recorders or electronic recording devices during an interview. There are no legal barriers to the use of tape recording equipment by the inspector solely for the purpose of recording his/her own observations during the inspection. Also, the inspector may record an interview, if it is done with the knowledge and consent of the interviewee. However, if a given investigation requires tape recording individuals without their knowledge, the inspector must consult with the Office of Regional Counsel. Otherwise, the inspector may violate criminal statutes which prohibit such actions. In considering the use of a tape recorder, the inspector should gauge whether the interviewer is more or less likely to talk freely.

Written Statements

If the information given by the interviewee seems especially significant, the inspector should attempt to obtain a signed, written statement according to procedures discussed below.

Inspectors can obtain formal written statements from persons who have personal, first-hand knowledge of facts pertinent to a suspected violation or have knowledge of information that a third party known by name may be able to provide or who have information whose source is not clearly known. The principal objectives of obtaining a statement are to record in writing, clearly and concisely, relevant factual information so that it can be used to document an alleged violation. This statement of facts is signed and dated by the person who can testify to those facts in court, and it may be admissible as evidence.

Procedures for Obtaining Written Statements

In taking statements, the following procedures and considerations should be applied.

- Determine the need for a statement. Will it provide useful information? Is the person making the statement qualified to do so by personal knowledge?
- Ascertain all the facts and record those which are relevant regardless of the source.
- In preparing a statement:
 - Use a simple narrative style; avoid stilted language.
 - Narrate the facts in the words of the person making the statement.
 - Use the first-person singular ("I am manager of...").
 - Present the facts in chronological order (unless the situation calls for other arrangements).
- Positively identify the person (name, address, position).
- Show why the person is qualified to make the statement.
- Present the pertinent facts.
- Have the person read the statement and make any necessary corrections before signing. If necessary, read the statement to the person in the presence of a witness.
 - All mistakes that are corrected must be initialed by the person making the statement.
- Ask the person making the statement to write a brief concluding paragraph indicating that he read and understood the statement. (This safeguard will counter a later claim that the person did not know what he was signing.)
- Have the person making the statement sign it.
- If he refuses to sign the statement, elicit an acknowledgement that it is true and correct. Ask for a statement in his own handwriting ("I have read this statement and it is true, but I am not signing it because...."). Failing that, declare at the bottom of the statement that the facts were recorded as revealed and that the person read the statement and avowed it to be true. Attempt to have any witness to the statement sign the statement with his name and address.
- Provide a copy of the statement to the signer if requested.

EPA's Office of Enforcement and Compliance Monitoring (OECM)

Tips on Developing Drawings and Maps

To be used in conjunction with the Module VII discussion of types of evidence. Many programs require inspectors to include drawings and maps as part of field reports. If this is the case, this handout may be distributed during the "field report" section of Module VIII.

DRAWINGS AND MAPS

As the inspector records observations at a facility, some things prove difficult to describe in words or photographs, yet they may be essential to the story. These must be captured in visual notes such as drawings, maps, charts, and schematic diagrams. Such visual notes can be important evidence in court, and they are helpful in composing the inspection report.

Drawings and maps can provide graphic clarification of site location relative to the overall facility, the parameters of a spill or contamination, the relative height and size of objects, and other information which, in combination with samples, photographs, and other documentation, can produce an accurate, complete evidence package.

Formal maps, prepared by cartographic techniques and based on notes made in the field, are also required for some purposes.

All the forms of visual notes described here should be referenced in the field logbook at the time they are made. A drawing or sketch can be entered directly into the logbook itself; this integrates it clearly with other notes in chronological order.

Maps

A rough map drawn during the inspection can be a valuable piece of evidence. A judge or jury will hear many facts during a trial and may have difficulty remembering them. A map of the site provides a frame of reference onto which they may hang these otherwise forgettable facts. Even if it is necessary later to draw up a more presentable map, the original drawing corroborates what the inspector saw at a facility.

A map also helps the judge or jury form a mental picture of the facility through the eyes of the inspector. The layout of a facility can be hard to grasp when a person hears it described in words. Anyone who has tried to get around in an unfamiliar city knows the difficulty of learning a layout. A map helps the viewer across this hurdle.

Some types of maps the inspector may make are:

- General map of the facility;
- Map showing where photos and samples were taken;
- Map showing where potentially noncomplying situations were observed;
- Map showing the layout of a particular part of the facility on which the inspection focused major attention.

Sometimes a prepared map is used in the pre-inspection planning, to select sample sites or plan the inspection effort. It may be useful to take a copy of this map along on the inspection and enter notes on it to show where samples, photos or other observations were taken. Notes on this map should be cross-referenced to notes in the logbook.

Informal maps drawn by the inspector should be simple and free of extraneous details. Basic measurements and compass points should be included to provide a scale for interpretation. Maps should be signed and dated. If drawn separately from the logbook, each map should be numbered, signed and dated, and cross-referenced in the logbook at the appropriate point in the chronology.

Formal site maps prepared by cartographic techniques are often prepared for hazardous waste site investigations and some other investigations that may result in enforcement actions. The inspector should consult with program managers about the need for such mapping in a particular situation and about how to secure cartographic services.

Drawings and Diagrams

Although not as accurate or credible as a photograph, such drawings are a good backup method where photography cannot do the job. Sometimes a photograph would contain so much detail that the crucial features are not clear or would require too much explanation. In such cases a good, simple schematic drawing or diagram can be useful.

The drawing or diagram can be drawn in the logbook, or on a separate sheet of paper if necessary and referenced in the logbook. The drawing or diagram should contain notations of the approximate dimensions of the subject. The level of accuracy of the drawing should also be noted (e.g., "estimated" or "measured with steel tape"). All such visual notes should be referenced to show where the subject was observed in the facility.

Sometimes a facility's own publications may provide helpful illustrations of the layout, conditions, and operations. Brochures, literature, labels, and other printed matter may be collected as documentation if the inspector believes they are relevant. All printed matter should be identified with the date, inspector's initials, and origin.

EPA's Office of Enforcement and Compliance Monitoring (OECM)

Guidelines for Writing Inspection Reports

To be used in conjunction with the Module VII discussion of types of evidence. This handout is relevant for all programs, regardless of whether inspectors are required to write field reports. The general points outlined in the handout are critical for all written records, including field citations. (This may also be effective in the Module V discussion of procedures.)

THE INSPECTION REPORT

The results of all work done by an inspector are finally expressed in some form of written report. Although one measure of an inspector's success in enforcement is the quality of his reports, many inspectors do not appreciate the importance of report writing. Proper documentation of an inspection is a key aspect of an inspector's job. Government officials and attorneys who review the report must have all the facts to make appropriate and effective decisions. Well-written reports create an impression of a well-conducted inspection, and facilitate the report review and decision-making process. As one senior enforcement official stated it: "The quality of your inspection reports can make or break your career."

The purpose of the inspection report is to present a factual record of an inspection, from the time when the need for the inspection is perceived through the analysis of samples and other data collected during the inspection. An inspection report must be complete and accurate, because it will provide the basis for potential enforcement actions and may become an important piece of evidence in litigation. The length and format of inspection reports may vary based on program and individual office policy and practice.

The objective of an inspection report is to organize and coordinate all evidence gathered in an inspection in a comprehensive, usable manner. To meet this objective, information in an inspection report must be:

- Accurate. All information must be factual and based on sound inspection practices. Observations should be the verifiable result of first-hand knowledge. Enforcement personnel must be able to depend on the accuracy of all information.
- Relevant. Information in an inspection report should be pertinent to the subject of the report. Irrelevant facts and data will clutter a report and may reduce its clarity and usefulness.
- Comprehensive. The subject of the report (i.e., any suspected violations) should be substantiated by as much factual, relevant information as is feasible. The more comprehensive the evidence, the better and easier the prosecution task.
- Coordinated. All information pertinent to the subject should be organized into a complete package. Documentary support (photographs, statements, sample documentation, etc.) accompanying the report should be clearly referenced so that anyone reading the report will get a complete, clear overview of the subject.
- Objective. Information should be objective and factual; the report should not draw conclusions.
- Clear. The information in the report should be presented in a clear, well-organized manner.
- Neat and Legible. Adequate time should be taken to allow the preparation of a neat, legible report.

Inspection reports are normally prepared by the inspection team leader, with the assistance of the inspection team members. After an inspection has been completed there is a psychological letdown. Reporting what happened during the inspection may then seem a burdensome chore, but the inspector's job is not finished until the report is complete and the official files are in order. Remembering the simple rule that "no job is complete until the paperwork is finished" will assist the team in planning and conducting the inspection so that the report will accurately portray the findings of the inspection. Recall also, as discussed in Chapter 8, that unless the report is prepared routinely and contemporaneously with the inspection, it may not be used to refresh recollection or be admissible as evidence.

Elements of an Inspection Report

No single standard EPA inspection report format exists; the specific information needs will vary depending on the program and regulatory requirements involved. While the format and exact contents of the inspection report vary, the report should always contain enough information that the reader can determine the following:

- The specific reason for the inspection;
- Who participated in the inspection;
- That all required notices, receipts, and other legal requirements were complied with;
- What actions were taken during the inspection, including the chronology of these actions;
- What statements, records, physical samples and other evidence was obtained during the inspection;
- What observations were made during the inspection; and
- The results of sample analyses related to the inspection.

Although the specific information requirements in a given inspection report will depend on the type of inspection and what was found, most reports will contain the same basic elements:

- Inspection Report Forms
- Narrative Report
- Documentary Support

Inspection Report Forms

Individual inspection report forms, developed for most regulatory programs, are designed to collect standard, reviewable information about an inspection. Inspection report forms are only one aspect of a complete report and should by no means be considered to be sufficient documentation of the inspection in themselves. They function as guides to ensure that all basic data are being collected, and are generally completed as the inspection progresses. Individual items on these forms often need clarification and elaboration; inspectors normally use the field logbook for this information.

In cases where inspection report forms are unavailable, inappropriate, or not comprehensive, the inspector should record pertinent information in the field logbook. This information should be used in the narrative of the Inspection Report to clarify and expand upon the information from the Inspection Report Forms.

Narrative Report

The narrative portion of an inspection report should be a concise, factual summary of observations and activities, organized in a logical, legible manner, and supported by specific references to accompanying evidence (documentary support). A work plan will simplify preparation of the narrative and will help ensure that information is organized in a usable form. Basic steps involved in writing the narrative report include:

- Reviewing the information
- Organizing the material
- Referencing accompanying material
- Writing the narrative

Reviewing the Information. The first step in preparing the narrative is to collect all information gathered during the inspection. The inspector's field logbook and all Inspection Report Forms should be reviewed in detail. All evidence should be reviewed for relevancy and completeness. Gaps may need to be filled by a phone call or, in unusual circumstances, a follow-up visit.

Organizing the Material. Organization of the information can take many forms, depending on the case, but should present the material in a logical, comprehensive manner. The narrative should be organized so that it will be understood easily by the reader.

Referencing Accompanying Material. All evidence (e.g., copies of records, analytical results, photographs) that accompany a narrative report should be clearly referenced so that the reader will be able to locate them easily. All support documents should be checked for clarity prior to writing the report.

Writing the Narrative Report. Once the material has been reviewed, organized, and referenced, the narrative can be written. The purpose of the narrative report is to record factually the procedures used in, and findings resulting from, the evidence-gathering process. In this report, the inspector should refer to routine procedures and practices used during the inspection, but should describe in detail facts relating to potential violations and discrepancies. The field logbook is a guide for preparing the narrative report.

If the inspector has followed the steps presented in this manual, the report can develop logically from the organizational framework of the inspection. In preparing the narrative, simplicity should be a prime consideration:

- Use a simple writing style; avoid stilted language.
- Use an active, rather than passive approach (e.g., "He said that ..." rather than "It was said that...").
- Keep paragraphs brief and to the point.
- Avoid repetition.
- Proofread the narrative carefully.

Note Regarding Standard Operating Procedures. When the inspector has followed Standard Operating Procedures (SOPs) precisely in gaining entry, taking samples, etc., this can be easily noted in the report (e.g., "following standard procedures, Joe Smith gained entry to..."). If there were any unusual circumstances or deviations, however, these should be included in the report in more detail.

Confidentiality Considerations and Procedures

All documents and other materials that have been declared confidential business information by facility officials must be handled according to the security measures that have been established for such materials. Confidential information includes not only the materials themselves, but also any reports -- such as inspection reports -- generated on the basis of confidential information. Generally, this will involve limiting access to the report to the fewest number of people possible.

In preparing the inspection report, it may be possible to reference confidential material in a non-confidential way, such as by providing a general description of the information and a reference number to the confidential documents. An alternative is to include the information in the inspection report but treat the entire report as a confidential document.

Especially stringent security requirements apply to documents or reports containing TSCA-CBI. See the TSCA Base Inspection Manual for detailed procedures.

Conclusions Regarding Compliance

Inspection reports should contain only the facts about the inspection. Clearly, however, the inspector's conclusions and opinions about the compliance of the facility are the critical factors (and often, the only factors) in the Agency's decision as to whether a violation did or did not exist. It is essential, however, that the inspection report itself not include the inspector's conclusions regarding compliance.

In writing the inspection report, avoid using the word "violation," which means a conclusion of law has been drawn. It is acceptable to state facts, such as: "The permit limit is x. I found y, which exceeds the limit by z."

Conclusions should be contained in a separate cover memorandum or other format that is clearly separate from the inspection report and passed up the management chain along with the factual inspection report.

The principal reason for this is that if an enforcement case is pursued, the entire inspection report is subject to discovery by the opposing side. If conclusions of law and opinions are in the report, which must be shared, the opposing side might be able to weaken the inspector's credibility by suggesting bias. Or, the inspector may have been wrong about one or more counts and the Agency did not pursue them; this would be revealed through discovery, again weakening the inspector's credibility.

A separate findings or conclusions memorandum will usually be protected from discovery based on attorney-client privilege or another exception rule.

In some programs, it may be the inspector who determines whether a violation occurred and if an enforcement action is warranted. In these situations, the inspector is no longer performing an inspector function; he or she has actually "changed hats" into a different job -- that of a case development officer. The line between the two jobs should be clearly drawn, with the person staying in a fact-finder role while carrying out inspector functions -- including inspection report writing.

Tips for Writing an Effective Inspection Report

This section presents guidance in preparing effective inspection reports. The style of these reports should be clear, concise, accurate, factual, fair, complete, and logical. Inspection reports should not contain flowery phrases, levity, superlatives, or unnecessary verbiage. Remember, the purpose of an inspection report is to convey the facts determined during an inspection to a reader whose course of action will depend upon its contents. This communication is not complete until the

reader understands precisely what was intended and is willing to take action. To provide this communication, a report must be readable and must inspire confidence in the reviewers. Written communication does not have the advantages of facial expressions, voice tones, or gestures to get a message across and to interpret how it is being received. Therefore, the report must be written so as to eliminate the possibility of erroneous conclusions, inferences, or interpretations. It will become part of the permanent records for the inspected facility, along with the inspector's field logbooks, samples, formal statements, photographs, drawings, maps, printed matter, mechanical recordings, electronic recordings, and copies of records. A well-written report will serve as a summary of these other records.

In general, three rules apply to preparation of good inspection reports.

- Write to express, not to impress. Just relate the facts and evidence that are relevant to the compliance situation; don't tell about the inspection.
- Keep it simple. Organize complicated matters and state them in simple, direct terms.
- Keep the reader in mind. Relate your writing to the reader's experience and use words that are likely to be familiar.

The following sections provide a summary of the essential elements of good reports and organizing the writing process.

Essentials of Good Reports

Fairness, accuracy, completeness, conciseness, clarity, and organization are all essential characteristics of well-written and effective inspection reports. Prepare the report with these characteristics in mind, and keep them in mind during each phase of reviewing and rewriting. Although, by themselves, these characteristics will not ensure a well-written report, they are essential.

- Fairness. Inspection reports must be entirely objective, unbiased, and unemotional. Avoid distortion by being aware of the emotional tone of words. For example, note the difference in implication between "planning" and "scheming." Rumors or gossip should be included only if it is material to the inspection and is clearly identified as hearsay. If you can quote someone exactly, do so; otherwise, paraphrase the statement as accurately as possible. A report may mention a person's race, religion, or political persuasion only if it is relevant and material. Never make offensive remarks or use offensive slang in making reference to anybody's race, religion, or ethnic origin.
- Accuracy. Be exact. Say precisely and accurately what you mean to say in plain language. Precision depends on diction, phrasing, and sentence structure. Avoid exaggerations. One small exaggeration may cast doubt on the accuracy of other statements in the report. For example, do not state that something was obvious; just state the facts. Omit opinions, conclusions, and inferences. (Opinions may be expressed in rare circumstances to clarify meaning, but they should be clearly identified as nonfactual information. For example, "this act indicated his knowledge" is a conclusion and should be clearly identified as such.) The report should present facts so clearly that there is no need for conclusions or interpretations.

State facts so that inferences can be drawn from them, but do not let inferences replace facts. For example: If you saw someone loading bags marked "toxic chemicals," do not write that you saw a person loading toxic chemicals. You only saw someone loading bags marked toxic chemicals. A frequent error found in reports is to substitute the word "signature," which by definition means signed by.

Inference: The compliance reports were signed by John Doe.

Fact: The compliance reports were signed, "John Doe."

Avoid superlatives. Any attempt to strengthen a report in this way actually weakens it, as reviewers tend to doubt its objectivity.

Accuracy means truthfulness. The accuracy of all findings and computations must be verified before the final report is submitted. A typographical error in date or time may cast doubt on other facts in a report.

- Completeness. Include all information that is relevant and material. Completeness implies that all the known facts and details have been reported, either in the text of the report or in an exhibit, so that no further explanation is needed and the reviewer will be convinced that the inspection was thorough and comprehensive. Include in the body of the report only those parts of exhibits that are material to the inspection and are necessary to give the reader a complete understanding of the compliance matter involved. Exhibits should contain complete statements or data.
- Source. Always report the source of evidence. When possible, make inspection reports interview-oriented (i.e., report statements made by interviewees). For example, do not say that the exhaust stack was black if you did not see it. Write, "John Jones said that the exhaust stack he saw was black." Explain how the interviewee acquired the knowledge you are reporting, and tell how you obtained the information.
- Exhibits. The report should be complete in that it is one single document. Original or duplicate copies of laboratory reports, affidavits, correspondence and other documents should be submitted as exhibits to the original report. These exhibits should be consecutively numbered in the order that they are mentioned in the body of the report. Exhibits are best introduced parenthetically. For example, "J.M. Dale told me (Ex. 1, Statement), I do not"
- Testing Completeness. Test the report to ensure that it answers the questions who, what, how, when, where, and why related to the compliance situation.
 - The first time they are mentioned in a report, all individuals should be identified completely by their first, middle and last names. If the person has no middle name or initial, indicate this by the use of (NMN) or (NMI) between the first and last names.
 - The report should clearly indicate what happened and how it happened, no more and no less. The chronology of occurrences should be stated clearly. The report also should indicate the date and time the happening occurred or an approximation if the exact time is unknown. Do not place the date or time in the middle of a sentence, as this causes ambiguity. The date and time an event occurred should be placed either first or last in a sentence, as appropriate.
 - The location of the occurrence should be identified as a definite place, to the exclusion of all other places. The place should be so clearly identified that no confusion or misinterpretation is possible.
 - Why a situation occurred is particularly significant with respect to violations where intent is an element of the offense. In such cases, the report should set forth the facts bearing on intent with such clarity that there is no need for conclusions or opinions within the report.
- Conciseness. Conciseness does not mean omission. It is the avoidance of all that is elaborate or not essential. Conciseness is not what you say, but how you say it. Conciseness means omitting unnecessary words; it does not mean omitting facts, detail and necessary explanation. It is not the same as brevity. If clarity and completeness require a detailed explanation, do not hesitate to use it.

Readers like short sentences and short paragraphs with plenty of white space in between. Remember that all sentences in a paragraph are related to each other and express a unit of thought. Use tables to describe a group of items having similar characteristics. Results of sample analyses, observation times, records' inspections, and similar information should almost always be reported in table form.

Write plainly. Use active verbs whenever possible. The active voice gives force to writing. If you write like you talk, you probably will avoid excessive use of the passive voice. Do not write, "A low drive was hit by Eddie Murray." Instead, use the active voice, like you talk: "Eddie Murray hit a low drive."

Avoid repeating the same material in several sections of the report. Also, avoid redundant phrases such as: repetitive and redundant, approve and accept, null and void, part and parcel, ways and means, basic essentials, disappear from sight, while at the same time, revert back, pure and simple, and gross exaggeration.

- Clarity. Inspection reports must be written clearly to avoid misinterpretations. Clear writing leads to clear thinking and vice versa. Order your thoughts; select those most useful to the reader; arrange them logically; and select the words that will best convey your thoughts to the reader.

Everything in the report must be relevant and essential to the main purpose of the report, and its relevancy and material nature must be evident to the reader. Each sentence, paragraph, and division or part must represent a unit of thought and help establish the main point of the report; which usually is an alleged violation of the law. The unity of the report is enhanced by the use of topic headings, especially for major parts of the report. Such headings should succinctly describe what is contained in the particular part of the report.

The careless use of personal pronouns is a frequent cause of ambiguity. If the use of a pronoun may result in ambiguity, use a noun. Avoid the use of the pronoun "It" and the word "There" as substitutes for precise word selection. For example, say "We should do ...", rather than "It should be done ...", and "Changes have been made ...", rather than "There have been changes."

Use specific and concrete expressions rather than general or abstract statements. Poor writing often reflects a failure to select words which paint a clear mental picture. If you write that you took three water quality samples, the meaning is not clear. But if you write, "I took one effluent sample from Station E-1, one groundwater sample from station G-1, and one sample from a nearby river at station R-1," the reader understands clearly.

Although in English grammar classes we have been taught to use ingenuity and imagination, to be original, and to avoid repeating the use of the same words in our writing, inspection reports are not essays or literary works. If necessary, repeating use of a word or sentence structure is acceptable, if this uniformity increases clarity. Remember, the purpose is to communicate clearly, not to entertain.

Punctuate to make the meaning easy to understand. For example, consider the different meanings of the following three sentences: The employee said the foreman is a blockhead. The employee said, "The foreman is a blockhead." "The employee," said the foreman, "is a blockhead."

In presenting a series of thoughts or actions, parallel construction helps clarify meaning. For example, write "collecting, depositing, and reporting revenue", instead of "collection, depositing, and the reporting of revenue."

- Organization. An inspection report should be structured to allow a logical order and coherence in the presentation of facts. This means that the relation of each event to the main idea and to the events immediately preceding it in the report must be unmistakable.

Otherwise, it is quite likely that the reader will not understand the significance of the event. Since the report writer cannot insert his conclusions or lead the reader by drawing inferences, he must depend upon facts that are so clearly stated and so logically arranged that the reader is certain to understand. Each violation, event, or circumstance should be narrated in full before the writer passes on to the next facet of the report. Most reports about criminal violations, for example, begin with the gist of the crime. Then they present the pertinent evidence of the alleged violator's connection with the violation.

Often, the events that occurred are reported in chronological order (the order in which they occurred). However, in some instances the significance of each event or item of evidence may be understood better by some other arrangement. Usually, all evidence from a single source should be presented before introducing information from another source.

In any report some facts and events are more important than others, and the writer wants to emphasize them so the reader is certain to notice them. In an inspector's report this cannot be done by comments of the writer, but it can be accomplished by careful selection and placement of words, phrases, and paragraphs, and by priority of organization. Place important words or phrases at the beginning or end of the sentence, and important sentences at the beginning or end of the paragraph. Emphasis also can be accomplished by some device which makes the important item different from other items. For example:

- Emphasize a sentence by indentation or by making it a separate paragraph.
- Emphasize paragraphs by leaving margins wider than those of the other, less important paragraphs.
- Emphasize important names, words, or phrases by capitalizing or underlining them. (This technique, however, should be used sparingly; otherwise the element of differentiation, and hence emphasis, is lost).

Organizing the Writing Process

Preparation of the initial draft of a report is difficult without a clear idea of the objective of the report, its subject, the methods used in the inspection, and the results of all data collection efforts. Once this information is all available, however, developing the initial draft can still present a significant obstacle. An outline for the narrative portion of the inspection report that can be adapted for most situations appears at the end of this section. The following tips for preparing a draft are also intended to aid in preparing the report.

Each writer has a personal style in draft preparation. Effective styles allow authors to use POWER in preparing reports. The idea of POWER is simply stated as a structure for writing: Plan, Organize, Write, Evaluate (edit), and Rewrite.

- Plan. The first step in writing is to determine your objective. Why are you writing? What is the purpose of this report? Have a clear understanding of the elements of the situation involved when you answer these questions. Many good inspectors begin to plan their reports when they begin planning the investigation. By thinking about how the facts must be reported to make a clear report, they improve both the quality of their reports and their inspections.

Prepare a detailed topic outline with topic headings that distinguish between major sections and minor topics. Include in the outline a brief reference to each supporting exhibit. An outline not only lessens chances of omitting necessary facts, but also assists in recognizing irrelevant details and achieving a logical arrangement.
- Organize. Most of the facts of an investigation are in memorandums, field notes, documents, etc. that were gathered during the inspection. Arrange this material in the order you

developed in the topic outline. From this bulk of material you can refine the topic outline and then build the body of the report.

- Write. In writing the report, remember that the format of your narrative report is determined by its purpose and by Agency policy. Refer to your office's directives and official sample reports or copies of other well-written reports to determine the format of the particular type of report you are writing. Use the writing process to evaluate the information being presented. Be willing to revise the topic outline to improve structure and clarity.
- Evaluate. After you have written a draft of the report, put it aside for a while, preferably at least overnight. Then analyze the report from the viewpoint of the reviewer and answer the following questions:
 - What is the report trying to communicate?
 - Has it fulfilled the purpose of the inspection?
 - Can supervisors and reviewers make correct decisions based on this report?
 - Does it answer the questions who, what, when, where, why and how?
 - Are any further inquiries necessary?
 - Is it readable?
 - Is it fair, concise, complete, accurate and logical?
 - Is any part ambiguous?
- Proofread the report to check for the following problems:
 - Inconsistency in format or style,
 - Unnecessary repetition,
 - Inappropriate tone,
 - Omission of pertinent information, and
 - Typographical errors.

At this point, it is often helpful to have the report reviewed by a colleague who has knowledge of the inspection or investigation. A second party can often identify problem areas more readily than the primary author, who may become too close to the material to be an objective evaluator.

- Rewrite. After evaluating the draft, rewrite or revise those portions of the narrative that do not respond to the questions used in evaluation. Upon completion of this process, the official draft of the inspection report will be circulated for official reviews and a copy of this draft will be kept in the official files. Be certain the report is an accurate representation of the complete situation.

Narrative Report Outline

While the specific information items will vary, the following outline for the narrative portion of an inspection report can be adapted to most situations.

Introduction

The introduction should briefly present all relevant background information about the conduct of the inspection and summarize the findings of the inspection.

- **General Information**
 - State the purpose of the inspection and how the facility came to be inspected (i.e., neutral scheme, follow-up, for cause).
 - State the facts of the inspection (i.e., date, time, location, name of the agent-in-charge, etc.).
 - Participants in the inspection.
- **Summary of Findings**
 - Give a brief, factual summary of the inspection findings.
- **History of Facility**
 - List the status of the facility (i.e., corporation, proprietorship, partnership, State agency, non-profit organization, etc., and where incorporated).
 - Give the size of the organization based on inspector observations or agency records.
 - List any related firms, subsidiaries, branches, etc.
 - List the type of operations performed at the facility under inspection.
 - List names and titles of facility officials interviewed. List the name(s) of official(s) responsible for day-to-day operations at the facility.

Inspection Activities

The body of the report should present the chronology of the inspection in the same order that the inspection was conducted. Be certain to insert all observations when appropriate and to cover the following topics when appropriate.

- **Entry/Opening Conference**
 - Describe the procedures used at arrival, including presentation of credentials and written Notice of Inspection, and to whom they were presented.
 - Describe any special problems or observations if there was reluctance on the part of facility officials to give consent, or if consent was withdrawn or denied.
 - If special procedures were necessary, such as obtaining a warrant, describe the procedures.

- Summarize the topics discussed during the opening conference.
- Note presentation of any other required notices (e.g., the TSCA Inspection Confidentiality Notice) and the officials to whom they were presented.
- Note if duplicate samples were requested.
- Records
 - List the types of records reviewed, noting the reasons for their review, and referencing documents that were borrowed or copied.
 - Describe any inadequacies in recordkeeping procedures, or if any required information was unavailable or incomplete.
 - Note if recordkeeping requirements were being met.
- Evidence Collection
 - Note and reference any statements taken during the inspection.
 - Describe and reference photographs taken during the inspection if they were relevant to possible discrepancies.
 - Reference any drawings, maps, charts, or other documents made or taken during the inspection.
- Physical Samples
 - Describe the purpose for which samples were obtained.
 - Describe the exact location from which they were obtained.
 - Describe sampling techniques used. They may be referred to as standard operating procedures (SOPs), if SOPs were followed exactly. If there were deviations from SOPs explain why and what was done.
 - Reference controlled identification procedures.
 - Describe the physical aspects of the sample (color, texture, viscosity, etc.).
 - Describe chain of custody procedures used in sample handling.
 - Summarize results of laboratory analysis (include actual data in the appendix).
- Closing Conference
 - Note and reference receipts for samples and documents given to facility officials.
 - Note procedures taken to confirm claims of confidentiality and Receipts for Confidential Business Information.
 - Note any recommendations, referrals, etc., made to facility officials.

Attachments

Supporting information should be attached to the report, to ensure that reviewers have all of the data needed to fully evaluate the compliance situation. All of these attachments should be fully referenced in the body of the report.

- **List of Attachments**

- Prepare a list of all documents, analytical results, photographs, and other supporting information attached to the report. A general index list, rather than detailed descriptions will aid case development personnel in locating specific documents.

- **Documents**

- Attach copies of all documents and other evidence collected during the inspection. All documents should be clearly identified.
- In cases where documentary support items cannot be included easily with the report, it may be possible to substitute descriptive information.

- **Analytical Results**

- Attach sample data and quality assurance data. This may be presented as tables here, with pertinent information summarized in the body of the report.

Inspection Report Evaluation Guide

The organization and format of an inspection report can vary based on the practice of the office or program, the particular circumstances of the inspection, and the individual writing style of the report writer. No matter what form the report takes, however, the report should contain information about the facility or site inspected, a detailed description of specific inspection activities that were performed, and substantiating information on any suspected violations that were observed.

An Inspection Report Evaluation Guide appears on the following page. The Guide contains questions that should be answered by each inspection report, regardless of the organization or format of the report. Note that being able to answer all of these questions is a sign of a high quality inspection, as well.

INSPECTION REPORT EVALUATION GUIDE

The organization and format of an inspection report can vary based on the practice of the office or program, the particular circumstances of the inspection, and the individual writing style of the report writer. No matter what form the report takes, however, the report and its attachments should contain the answers to the questions which follow.

Basic Inspection Information

Who prepared the inspection report?

Who signed the inspection report, and on what date?

Who performed the inspection (all participants)?

What is the name and location of the facility/site?

What is the facility/site's mailing address and telephone number?

What is the name and title of the responsible official who was contacted?

What was the reason for the inspection (e.g., routine, response to a complaint, for cause)?

What are the names and titles of all of the government personnel who participated in the inspection?

Entry/Opening Conference

What are the facts about the entry (e.g., date, time, entry location, agent-in-charge)?

Is there documentation that proper entry procedures were followed?

Were all required notices and credentials presented?

Is there documentation that facility officials were informed of their right to claim information confidential?

Were there any unusual circumstances about gaining consent to enter (e.g., reluctance, attempts to limit inspection scope, attempts to place special requirements on inspectors)? How were they handled?

Who was present at the opening conference? What topics were discussed?

Background on the Facility/Site

What type of facility/site is it?

What types of activities and operations take place at the facility/site?

Who owns the facility or site (e.g., corporation, proprietorship, partnership, Federal or State agency, non-profit organization)?

How many years has the facility been in existence?

How many employees are there at the site?

Have any major modifications been made to the facility? Are any future modifications or expansions planned?

At what level of capacity is the facility operating? How many shifts? How many hours per day and days per week? What relationship does this information have to the inspection that was performed?

Which operations/processes/activities at the facility were examined during the inspection?

Which operations/processes/activities at the facility were not examined?

Inspection Activities

Records Inspection

Is there a general description of how records are kept at the facility?

What was the purpose of reviewing records?

What facility records were reviewed?

How were the specific records selected for review (e.g., was an auditing technique used, were all records reviewed)?

Are records that were photocopied or data manually copied from records adequately identified and documented?

Were any suspected violations found? (Each should be fully documented, making sure that all of the information required by the section below on suspected violations is included.)

Physical Sampling

What was the inspector's sampling plan for the facility/site?

What physical samples were collected at the site?

Are the sampling techniques used adequately explained?

Are all samples clearly tied to an identification number, location, purpose?

Are sampling conditions and other physical aspects of the sample (e.g., color, texture, viscosity) described?

Were any deviations from the sampling plan and/or standard operating procedures (SOP) adequately explained and documented?

Are chain of custody procedures documented?

Are the results of laboratory analysis clearly presented?

How do the sample results compare to permit limits?

Illustrations and Photographs

Are photographs taken during the inspection referenced? Properly documented?

Is there some information about the inspection that could be made easier to understand through a diagram or sketch in the inspection report?

If sketches, diagrams, or maps are used, is the scale and/or other relationships shown clearly?

Interviews

What are the names and titles of facility officials and other personnel who were interviewed?

Are their statements clearly summarized?

What are the names and addresses of any other individuals who were interviewed or who were witnesses?

Closing Conference

Is there documentation that required receipts for samples and documents were provided?

Is there documentation that facility officials were given an opportunity to make confidentiality claims?

Are statements the inspector made to facility officials regarding compliance status, recommending actions to take, or other matters noted?

Documentation of Suspected Violations

The heart of the inspection report is really the documentation and substantiation of suspected violations, which allows the Agency to determine whether a violation occurred, how and why it occurred, and its seriousness. This substantiating information includes all of the evidence of various kinds that has been collected. In an actual inspection report, some of the answers to the questions on the preceding pages might be answered in the portion of the report which discusses the evidence collected and other particulars regarding each suspected violation.

The inspection report should answer the following questions for each suspected violation.

Documentation of Suspected Violation

What regulation is suspected to have been violated?

What information proves that the cited regulation applies to the facility/site?

Using the elements of the regulation as a guide, what information proves that the suspected violation occurred?

What sampling methods (if appropriate) were used to determine that the violation occurred? Are any deviations from sampling methods adequately explained?

What information shows that possible exemptions to the rule do not apply?

Cause of Violation

Note: Not all programs require this information, but it may be useful even where not required for such purposes as negotiating an appropriate remedy and penalty and for planning future inspections. Causal information must be stated carefully so that it does not provide the violator with an excuse for the violation.

What information documents the possible cause of the violation (e.g., direct observations of gage readings, production logs, physical appearance of materials, statements by facility personnel)?

Is there any supporting information confirming/disapproving a possible claim of an upset or other exempt activity?

Other Mitigating and Aggravating Factors

The level of enforcement response is based on the seriousness of the violation. Civil penalty amounts are based on the gravity and circumstances of the violation, which is usually a calculation of the extent of the violation (e.g., amount of material involved) and the extent of the actual or potential harm that was or could be caused by the violation. This base penalty can be adjusted upward or downward based on such factors as past compliance history, or efforts made by the facility to correct the violation

The inspection report should contain information that will support the appropriate determination of the seriousness and extent of the violation as well as other information that might be useful in penalty calculation.

What is the seriousness of the violation (e.g., amount of emissions, length of time of excess emissions, nature of emissions, location of source, perceived public impact)?

What harm resulted or could result from the violation?

What efforts did the facility make to correct the violation?

How difficult will it be to comply (e.g., availability of technology, cost of complying, time required to correct the violation)?

What is the facility's past compliance history?

EPA's Office of Enforcement and Compliance Monitoring (OECM)

Tips on Official Files

To be used in conjunction with the Module VII discussion of types of evidence. The points in this handout can be presented in the lecture if the instructor determines that they are critical or the handout can serve as a reference tool.

OFFICIAL FILES

The official files related to an inspection or investigation comprise the Agency's legal documentation of its activities. All original documents, data, and evidence related to an inspection become part of the official records and should be treated as potentially admissible evidence in legal proceedings. Further, the opposing side in an enforcement proceeding is likely to have access as part of the discovery process. In criminal investigations, the Agency may turn over to the opposing side literally every scrap of paper with a note jotted on it in order to comply with the Jencks Act.

The inspector should always maintain a diligent and professional manner in recording notes of conversations, planning meetings, interviews, inspection observations, sample and data collection activities, and interactions with individuals related to the project. These notes should be prepared immediately, or as soon after the interaction or observation as is possible, to avoid loss of important details. All such records should be dated, legible, and contain accurate and complete documentation. Their language should be objective, factual, and free of personal feelings or inappropriate information. Avoid recording personal or irrelevant information where this information may become part of official records.

Components of the Official Files

Historical Records

Historical records related to a project are probably already contained in the official files for the facility being investigated. These records may include permit applications and associated documentation; inspection plans and reports from previous inspections; reports of laboratory data from samples collected during previous inspections or submitted by the facility; site maps, plans, drawings, and descriptions; and photographs, photocopied records, and other physical samples or evidence about the facility. All of these records are available to authorized inspection team members, and should be used to provide a background of knowledge about the facility and its history with the Agency. This information will often be valuable in planning an inspection.

The Inspection File

The inspection file normally contains all of the records associated with an inspection. This file is reviewed by case development personnel as part of the evaluation of whether an enforcement response should be made to potential violations identified during the inspection, and if so, what type of enforcement response should be made. A missing required inspection notice or incomplete chain of custody record, for example, could jeopardize the Agency's ability to successfully prosecute a violation.

There are differences in statutory requirements as well as program and Regional policy and practice, so no one list of file contents will be appropriate for all situations. The list of contents which follows can serve as a guide to the types of records that should be kept in the inspection file.

- Investigation requests (if issued). If a written request was issued by another office (e.g., Headquarters or Regional program office) to conduct the inspection, a copy should be included in the file.

- Communications. For each inspection, communications may occur in many forms and among many individuals. Copies of all official correspondence, possibly including notifications of intent to conduct an inspection (both to the facility and to the State), requests for data, and informational correspondence, should be included in the official files. Records of telephone and personal conversations also should be included.
- Notice of Inspection. If the authority in the statute under which the inspection was conducted requires presentation of a notice of inspection, the inspection file must contain evidence that a written notice of inspection was presented. Case development personnel will review it to ensure that the inspection adhered to the terms specified in the notice.
- Verification of Credentials. Some EPA statutes also require that an inspector present appropriate credentials to the owner, operator, or agent in charge of the inspected premises. Therefore, the inspection file should contain evidence that proper credentials were presented.
- Inspection Confidentiality Notice. TSCA requires that facility officials be informed of their right to claim inspection data as confidential business information (CBI). For all TSCA inspections, the file should contain a copy of the CBI notice. It will be reviewed for proper signatures and dates, as well as completeness.
- Declaration of Confidential Business Information and TSCA Confidentiality Clearance References. These items are contained in the inspection file when materials have been claimed as confidential. The Declaration collected during the inspection will be reviewed for signatures, dates, and a complete listing of all documents and samples for which CBI was claimed. The Clearance References will be checked to ensure that all individuals who handled or will handle TSCA-CBI held the appropriate clearances.
- Receipt for Samples and Documents. A receipt must be issued for all samples and documents collected during inspection under some EPA statutes (RCRA, CERCLA, TSCA); it is good practice under all statutes.
- Inspection (Project) Plan. The plan will be reviewed to ensure that it presented the objectives, scope, logistics, and schedules for the inspection. Inspectors should be prepared to explain the inspection rationale and any deviations from the plan.
- Narrative Inspection Report. Generally, a copy of both the draft and final versions of the inspection report, including attachments, should be included in the inspection file. However, some programs and Regions may have specific procedures for review and retention of draft reports. The final report will be reviewed by case development personnel for factual information, professional judgments, objectivity, and comprehensiveness.
- Inspection Report Form. If the program has an inspection form or checklist that is completed for each inspection, a copy should be included in the file.
- Other Evidence. Other evidence that should be kept in the official files includes photographs, copies of documents and records, statements, affidavits, drawings and sketches, etc., collected during the inspection.
- Custody Records. There should exist a complete inventory of sample tags and seals, chain of custody records, and related materials that demonstrate the traceability and proper identification of all samples taken during an inspection. Chain of custody records include all of the following items:

- Official Chain of Custody Record forms used to record the custody of all samples and other physical evidence collected during an inspection,
 - Copies of Receipt for Samples forms (for RCRA, CERCLA, and TSCA samples) that were provided to the owner or operator of the facility,
 - Copies of letters authorizing laboratories to dispose of samples related to the project, and
 - Sample tags or labels from samples that have been destroyed by the laboratory.
- Laboratory Analyses. Test results from any laboratory analyses made in connection with the inspection should be included in the inspection file.
 - Subpoena. If a subpoena was issued, a copy must be included in the inspection file. It will be reviewed to ensure that it was issued properly and that there was compliance with the requirements of the document.
 - Warrant. If a warrant was issued, a copy of the warrant application, warrant, and inventory should be in the file. These will be reviewed to ensure the warrant was properly issued and that the inspection complied with its terms.
 - Field Logbook. The bound field logbook used by the inspector to record his or her field activities on the inspection becomes part of the official file (although it may not be physically located in the file itself). Once completed, the logbook becomes an accountable document, it does not belong to the inspector.

MODULE VIII:

CHAIN OF CUSTODY FOR EVIDENCE AND SAMPLE HANDLING

Desired Outcome for the Module:

Inspectors will understand the importance of local procedures for collecting evidence and handling samples

Teaching Aids:

Examples of sample tags and chain of custody record (use local materials, if appropriate)

Approximate Time: 1 hour

VIII. CHAIN OF CUSTODY FOR EVIDENCE AND SAMPLE HANDLING

A. Overview of Module

1. Importance of chain of custody
2. Policies and procedures for sample management
3. Elements of custody
4. Overview of chain of custody procedures

B. Importance of Standard Operating Procedures and Chain of Custody

1. Chain of custody procedures allow enforcement and legal officials to trace possession of a physical sample or other physical evidence from collection to introduction into evidence at a legal proceeding
2. Sampling and chain of custody procedures may be very important to the development of enforcement cases
3. Enforcement personnel must be able to demonstrate that physical samples were not tampered with or contaminated after collection
4. Staff must keep accurate written record of the possession of evidence
5. Procedures apply to sample collection, transit, storage, and analysis

C. Sample Management in the Field

1. Inspectors may be required to take physical samples at an inspection site; samples may be used as evidence
2. The manner in which evidence is handled after it is collected at a site is crucial to the enforcement case

CONTENT OUTLINE

INSTRUCTOR NOTES

3. Following guidelines for sample management will make the process simple
 - a. Handle samples in accordance with safety procedures
 - 1) Special handling for highly toxic substances should be arranged in advance
 - 2) Security provisions should be adequate to protect both samples and documents
 - b. Provisions for sample preservation should be planned in advance
 - c. Avoid delays in transit
 - d. Samples should be delivered by the inspector or shipped by the most economical means, in accordance with regulations
 - e. Record handling and shipping procedures to document the integrity of the sample
 - f. Obtain copies of all shipping and handling documents for the official inspection file
 - g. Equipment for proper sampling should be available to ensure a legally defensible job, including bottles, ice, cooler, sample labels, and sample bags
 - h. Inspectors should carry equipment with them for sampling
 - 1) Bottles, cooler, necessary sampling and safety equipment
 - 2) Sample tags and chain of custody records

It may be useful to briefly mention procedures for standard v. expedited enforcement and describe any differences in sampling and custody procedures, if necessary.

Distribute copies of sample tags and chain of custody records. Create an overhead of the materials to put up while they are discussed. Examples of these materials are included in the samples section.

Show overhead of sample tag and chain of custody record as appropriate. If possible, have all equipment inspectors will need to use on-hand. "Hands-on" demonstration of the equipment is an excellent teaching tool.

D. Elements of Custody

1. "Custody" refers to physical evidence in the actual possession, control, and presence of the inspector
 - a. In the inspector's view
 - b. In a storage area to which only inspector and identified others have access
2. Inspector must document custody of evidence at site
 - a. Sample tag
 - 1) Sample number
 - 2) Date
 - 3) Sampler's signature or initials
 - b. Field logbook entry
 - 1) Time, location, reasons for sampling
 - 2) Identification number
 - 3) Deviations from standard chain of custody
 - 4) Observations which would aid identification
 - c. Chain of custody record
 - 1) Identify each individual who had custody of the sample from time of the inspection until the enforcement proceeding
 - 2) Include any bills of lading or shipping receipts
 - d. Give receipt for samples given to owner or operator at site

E. Overview of Chain of Custody Procedures

1. Establishing custody

- a. Sample must be sealed, signed, and dated
- b. Written record must be maintained during collection, transit, and storage of sample
- c. Information should be clear, complete, accurate, and contain identification number of sample
- d. Custody during transit
 - 1) Record the name of each person having custody of sample and where stored in the chain of custody record (originator should retain copy)
 - 2) Record any deviations from standard procedures
 - 3) Persons in chain of custody should contact others if sample seal has been broken or there is irregularity in documentation
- e. Special procedures for maintaining samples during shipping (to laboratory or court)
 - 1) Samples must be accompanied by chain of custody record
 - 2) Obtain a bill of lading if sent by an outside carrier
 - 3) Include receipts and shipping with chain of custody documentation
- f. Other suggestions
 - 1) Maintain documents so that an inspector can testify about details without total recollection of the events

Section E was developed with generic chain of custody procedures in mind. Policies specific to your program regarding sampling and sample documentation should be incorporated. Again, you should check with the authorities in these areas to determine the local requirements and teach those requirements specifically. You may wish to bring in the authority to teach this section, and to provide any examples of sample tags or chain of custody records.

CONTENT OUTLINE

INSTRUCTOR NOTES

- 2) Make deletions on chain of custody record with a single line, initialed and dated
- 3). Obtain the signature of next person in the chain before relinquishing custody
- 4) Minimize the number of people in the chain of custody

Module VIII: Teaching Aids


- Examples of sample tags and chain of custody record sheets

EPA's Office of Enforcement and Compliance Monitoring (OECEM)



Sample Tags and Chain of Custody Record

Examples of sample tags and chain of custody record sheets that could be used in conjunction with the discussion in Module VIII of sample handling and chain of custody procedures. Examples such as these will be useful for inspectors in learning correct procedures for handling samples and developing effective enforcement cases.

Example of Sample Tag

| | | | | | | |
|--------------------|------------------|------------|------|--|-------|---|
| Project Code | Station No. | Mo/Day/Yr. | Time | Designation | |  |
| | | | | Comp. | Grab. | |
| Tag No. 1-23456 | Station Location | | | Samplers (signature) | | |
| | | | | | | |
| Lab Sample No. | Remarks: | | | PRESERVATIVE: Yes <input type="checkbox"/> No <input type="checkbox"/> | | |
| | | | | ANALYSES | | |
| | | | | BOD Anions | | |
| | | | | Solids (TSS) (TDS) (SS) | | |
| | | | | COD, TOC, Nutrients | | |
| | | | | Phenolics | | |
| | | | | Mercury | | |
| | | | | Metals | | |
| | | | | Cyanide | | |
| | | | | Oil and Grease | | |
| | | | | Organics GC/MS | | |
| | | | | Priority Pollutants | | |
| | | | | Volatile Organics | | |
| | | | | Pesticides | | |
| | | | | Mutagenicity | | |
| | | | | Bacteriology | | |

FRONT

| | |
|---|---|
| <p style="font-weight: bold; margin: 0;">UNITED STATES ENVIRONMENTAL PROTECTION AGENCY</p> <p style="font-weight: bold; margin: 0;">REGION XI</p> <p style="margin: 0;">Environmental Services Division</p> <p style="margin: 0;">Division St.</p> <p style="margin: 0;">New Columbia</p> <div style="display: flex; align-items: center; justify-content: center;">  EPA </div> |  |
|---|---|

BACK


Example of Sample Seal

| | | | | |
|---|--|---|---|---|
| UNITED STATES ENVIRONMENTAL PROTECTION AGENCY INSPECTOR'S SEAL <div style="text-align: center; margin-top: 20px;"> 3 <hr style="width: 80%; margin: 0 auto;"/> </div> | Sample No. <div style="text-align: center; font-weight: bold;">1</div> | Date <div style="text-align: center; font-weight: bold;">2</div> | 6 | 6 |
| | Signature <div style="text-align: center; font-weight: bold; height: 30px;">4</div> | | | |
| | Print Name and Title <div style="text-align: center; font-weight: bold;">5</div> | | | |

- (1) Insert sample number.
- (2) Insert date sealed.
- (3) Print location of collector's station.
- (4) Signature of persons sealing the sample.
- (5) Print name (same as signature) and title of sealer.
- (6) When seal is broken for any purpose, initial here and enter the date broken. Submit broken seal with sample records.

Field Sample Data and Chain of Custody Sheet (FSDCOCS)

- | | |
|------------------------------------|--|
| 1. Project code and account number | Obtain from designated individual |
| 2. Name/Location | As appropriate |
| 3. Project officer | Name of person who should receive lab data. Usually person collecting samples. |
| 4. | Check appropriate box |
| 5. Notes | Use for comments |
| 6. Samplers | List names |
| 7. Recorder | Signature of person completing the FSDCOCS |
| 8. Examples | See back of FSDCOCS |
| Source Code | As appropriate |
| Matrix | Enter number |
| Number of Containers | Obtain before sampling |
| Lab Number | Note 4 digit sequence number |
| Station Number | STORET station number (if available) |
| Date/Time | Military time |
| | For composite samples -- beginning--date/time of first aliquot |
| Ending Date/Time | Date/Time of last aliquot |
| Type | See back of FSDCOCS |
| | T = Time -- Aliquots taken at set frequency |
| | S = Space -- Grabs over an area |
| | F = Flow -- Variable time intervals |
| | B = S&T |
| Frequency | See back of FSDCOCS |
| Station Description | Be specific |
| 9. Codes | See back of FSDCOCS |
| 10. Chain of Custody | Document possession of samples en route to Region XI laboratory. If sent to another lab via common carrier, sign in "Dispatched By" box. |

| | | | | | |
|--|--|--|---|-------------------------|--|
|  EPA United States Environmental Protection Agency Chain of Custody Record | | Sample Number 3 | | Task Number 5 | |
| | | Inspection Number 4 | | | |
| | | Sample Name 6 | | | |
| Inspector Name and Address 1 | | Date Sample 7 | | Time 8 | |
| | | Duplicate Requested () Yes 9 () No | | | |
| Inspector Signature 2 | | Location of Sampling 10 | | | |
| Analysis/Testing Required | | 11 | | | |
| Laboratory | | | | | |
| Date Received | | | | | |
| Received By | | | | | |
| Sent Via | | | | | |
| Sample Condition | | | | | |
| Condition of Seals | | | | | |
| Units Received | | | | | |
| Storage Location | | | | | |
| Assigned By | | | | | |
| Assigned To | | | | | |
| Delivered By | | | | | |
| Date Delivered | | | | | |
| Number of Units Received | | | | | |
| Units Analyzed | | | | | |
| Date Seal Broken | | | | | |
| Date Received | | | | | |
| Resealed By | | | | | |
| Storage Location | | | | | |
| Date Results of Analysis Issued to EPA | | | Date Results of Analysis Issued to Facility | | |
| Remarks | | | | | |

Chain of Custody Record

1. Enter inspector's name and EPA office address.
2. Sign the Chain of Custody Record.
- 3-4. Sample and inspection numbering program is currently under development. Information regarding these spaces will be available at a later date.
5. Task numbers refer to EPA contractors. Inspectors may disregard this.
6. Describe the sample, including size, container, and contents. List brand names, if any.
- 7-8. List date (7) and time (8) sample was requested by facility officials.
9. Indicate if duplicate sample was requested by facility officials.
10. Enter name and address of firm.
11. List testing required for samples collected.

The remaining parts of the Record will be completed by personnel other than the inspector.

MODULE IX:

ENFORCEMENT CASE DEVELOPMENT AND TESTIMONY

Desired Outcome for the Module:

Inspectors will understand their role as enforcement case witnesses or program representatives

Inspectors will understand the objectives of testimony and how to deliver testimony

Teaching Aids:

Points for Prospective Witnesses

Hearing Preparation Form

Approximate Time: 1 hour and 30 minutes

IX. ENFORCEMENT CASE DEVELOPMENT AND TESTIMONY

A. Overview of Module

1. Inspector as a witness
2. Overview of the appeals inspector's role in the hearing or process
3. Guidelines for preparing testimony
4. Tips on testifying

B. An Inspector May Be Required to Serve as a Witness or Representative

1. Inspectors may need to serve as a witnesses or representatives of the program if owners or operators wish to contest violations
2. Inspectors may serve as witnesses in a variety of situations
 - a. Informal conferences or hearings regularly scheduled for inspectors and owners or operators
 - b. Appeals hearings for citations
 - c. Court or court related depositions
3. Inspectors may be required to hold regular informal conferences with owners or operators as the first step in the appeals process
 - a. Inspectors may have a regular day for owners or operators to contest citations
 - b. Inspectors should review citations, reports, files, or logbooks in preparation for conferences
 - c. Inspectors should remain professional and remember the tactics for dealing with irate persons (covered in Module X)

Section B addresses the possibility of inspectors serving as witnesses in enforcement cases, whether in an administrative hearing or a courtroom. Inspectors may also serve as program representatives in an informal conference with the owner or operator.

Review program-specific requirements and provide inspectors with an overview of their role in the appeals process. It is important to stress that preparation and professionalism in early courtroom or hearing situations will set the tone for future cases.

Legal staff members may be helpful in preparing to deliver (or delivering) the module, and you may want to distribute the case preparation forms, which are aids for inspectors in organizing their thoughts.

4. The administrative hearing or courtroom situations will differ
 - a. A courtroom situation is more formal and inspectors may not be the only program representative; cases are decided by judges
 - b. An administrative hearing setting is less formal and inspectors may take on a greater role program representative; cases are decided by administrative law judges (ALJs)
5. The role of the witness has several facets:
 - a. A witness provides truthful testimony under oath or affirmation
 - b. A witness must testify from personal knowledge
 - c. The object of testimony is to persuade
6. If a program is using introductory warning citations, inspectors will be less likely to appear as witnesses in a courtroom or hearing setting

C. Preparing for Testimony

1. Collect as much evidence as possible
 - a. Preparation for an enforcement case begins the moment the inspection begins
 - b. Everything an inspector hears, sees, reviews, samples, and records is potential evidence
 - c. Good record-keeping is essential
2. Review notes, logbooks, and reports before testifying as hearings or conferences may take place some time after inspections
3. Meet with legal staff to determine course of action
4. Be prepared to explain any inconsistencies written reports or evidence, and should help to determine if there are missing facts

5. Advise legal staff if contacted by opposing parties
6. Develop testimony (using notes, case preparation forms) and stick with it

D. Testifying

1. Be prompt and dress professionally
2. Be prepared for questions in both direct and cross examination from attorneys and judges
3. Be consistent with any previous testimony (e.g., depositions)
4. Listen to questions and answer only what is asked; do not volunteer additional information
5. Answers should be clear, truthful, and concise
6. Maintain poise during any hostile questioning from opposing representatives
7. Refrain from becoming angry, frustrated, or emotional
8. Always read your testimony when offered to correct any inaccuracies and sign
9. Do not include personal opinions or assumptions in testimony

Module IX emphasizes the fact that inspectors will play a professional role in a courtroom or administrative hearing situation, and that they are always in the process of building an enforcement case throughout their daily activities, even when citing simple violations. It is likely that legal staff will go over hearing procedures at the time of a hearing, but the Dade County, Florida, handout, "Points for Prospective Witnesses," may be very helpful as a reference. If there are other agencies or departments that have similar hearings that inspectors could attend, you may want to assign the group to attend a few short hearings. You could also organize a mock trial with help from legal staff.

Distribute handouts on hearing preparation and prospective witnesses, which are included as handouts at the end of this section.

Module IX: Teaching Aids

- Points for Prospective Witnesses
- Hearing Preparation Form

Dade County, Florida, Department of Environmental Resources Management

Points for Prospective Witnesses

To be used in conjunction with the Module IX discussion of inspectors as expert witnesses. It is designed to give inspectors basic guidelines for testifying in depositions or in court, but is also helpful to inspectors who may have to testify at hearings or informal conferences.

POINTS FOR PROSPECTIVE WITNESSES

1. ALWAYS TELL THE TRUTH. As a witness in a Federal trial it is your absolute duty to tell the truth to the best of your ability in accordance with the oath you will take in court. Do that and let the chips fall where they may - what effect the facts may have on the prosecution or the defense is solely the concern of the judge or jury, not of the witness.
2. DON'T VOLUNTEER INFORMATION YOU ARE NOT ASKED. In your living room you can inject comments nobody has asked you to make. In court you can't. Confine your answers to what you are asked, because information you volunteer may be inadmissible evidence or may be irrelevant to the case.
3. DO NOT TELL WHAT OTHER PEOPLE SAID OR WHAT YOU THINK UNLESS YOU ARE SPECIFICALLY ASKED TO DO SO. If you are asked what someone said or what you think about something, you can answer the question. But in most cases "hearsay" and opinions are improper in court. Unless you are specifically asked to tell about a conversation or to give your opinion, assume that every question calls solely for what you actually saw, heard, or did. Above all, don't volunteer hearsay or opinions you are not asked to give.
4. PAUSE FOR A SECOND BEFORE ANSWERING A QUESTION SO THAT THE OTHER LAWYER CAN OBJECT IF HE WISHES TO. Lawyers have an absolute right to object and you must give them the opportunity. You need only pause for a second, however, since they should object at once. If you see a lawyer for the plaintiff or for the defense starting to get up, he probably wants to object to a question you were asked. He has the right to have the Judge rule on the objection before you answer. Don't jump the gun and answer first. If the Judge says "Objection Overruled," then you may answer.
5. YOU CANNOT BE ASKED LEADING QUESTIONS ON DIRECT EXAMINATION. As a Government witness, you cannot be asked "leading" questions by the Government on direct examination. A leading question is one which contains a suggested answer. For example, "Were you able to see the defendant aim a gun at the car?" or, "Isn't it a fact that ..." are leading questions. Since the Government cannot lead you, you have to remember all of the facts pertinent to every question you are asked yourself, without help from the lawyer. Take your time and be sure to answer the question completely. If you are asked a question like, "Did anything else happen at that time?" or, "Was anything else said?" you can be sure you have omitted a fact which you mentioned to the U.S. Attorney or to a Government agent previously. Take your time and think back to what else may have happened which you failed to mention. Do not quickly answer "No" unless you are sure your answer is complete.
6. YOU CAN REFER TO DOCUMENTS IF YOU NEED TO. It is usually more effective if you can testify from memory without looking at anything. But if you need to look at something to refresh your recollection, you may. "May I see a copy of my memorandum or statement; I think that will refresh my recollection on that exact date," or a similar answer is entirely proper for you to say from the stand, on either direct examination by the Government or on cross-examination.,
7. DON'T GUESS. If you don't know the answer to a question, just say so. It is wrong to guess if you don't actually know the answer. If you know most of the answer but not all the details, you can say so. For example, if you are asked, "When did you last see the defendant?" and you know the month or year but not the date, don't say, "I can't recall," say that you can recall the approximate but not the exact time, and tell the best of your recollection. Never guess, however, if you have no firsthand information at all.
8. AN ESSENTIAL PART OF TELLING THE TRUTH IS TO BE ACCURATE ABOUT HOW SURE YOU ARE. Some things we are certain of, some things we are almost certain of, some things are our best memory, but we could easily be wrong. There are many shades in between. On cross-examination, be accurate about this and don't get badgered into adopting a position that is either weaker or stronger than the truth as to the strength of your memory.

9. DO NOT ASSUME THAT LONG-PAST EVENTS ARE ALWAYS DIM IN YOUR MEMORY. Some witnesses will say in answer to a question, "That was five years ago and so I can't remember," or, "My recollection is poor for what happened that far back." This is usually wrong and misleading. The importance of an event is usually more important than how long ago it was in determining how well you can remember it. Charts of memory have proven that most forgetting takes place within a very short time after the event. You may remember Pearl Harbor Day in 1941 and may not remember what you had for breakfast two days ago. If what you saw or heard struck you as important or unusual, you can probably remember it clearly even if it was a long time ago. If this is true and if you are asked, say so. If you don't remember something, just say "I don't remember." The chances are that you don't remember it because it didn't strike you as important at the time.
10. NEVER GET ANGRY. Some cross-examiners try to get witnesses angry so that they will make an error which the cross-examiner can dramatize. When you are angry you are least likely to do your duty as a witness, which is to give truthful answers. If a lawyer tries to anger you, remember that he has some reason for doing this. Your best reply is to remain absolutely calm and answer the questions. Remember that nothing a lawyer says is evidence of anything unless it is answered affirmatively by the witness. Remember that you are a witness and are not on trial in the case, no matter what you may be asked. If questions are too insulting, the Government may object, but it is much better if the witness can remain calm and handle every question without help from the Government. If you have made any mistakes in connection with the case, just admit them and the suspense will be gone from the subject. If you haven't, you should have no problem either.
11. NEVER ARGUE. Some witnesses tend to argue with the lawyer during cross examination. This gives the court and jury a bad impression of the witness. Just answer the question (if there is no objection) as calmly and as forthrightly as possible.
12. BE SURE YOU UNDERSTAND THE QUESTION. If you don't absolutely clearly understand a question, ask the examiner to explain what he means. This is especially important if the question is vague or contains value-judgement words, such as "Isn't it a fact that the defendant was always open and above-board in his dealings?" A question like that can cause your answer to be misleading. You must therefore clarify what you mean by such responses.
13. BEWARE OF YES OR NO. Some witnesses have the notion that all questions should be answered "yes" or "no." That is frequently untrue. Many questions cannot be answered accurately with "yes" or "no" because they contain half-truths or ambiguous phrases which can be misinterpreted later if answered "yes" or "no." These are the questions for which you should state the facts of what happened in your own words. If the lawyer asks you to answer "yes or no," you are entitled to tell him that it can't be answered "yes or no." It should be explained or it is misleading. The court will not direct you to answer "yes or no" unless the question permits that kind of answer.
14. BEWARE OF LEADING QUESTIONS CONTACTING HALF TRUTHS. Witnesses are frequently asked leading questions suggesting information which is either half true or contains facts not within the witnesses' knowledge. Such questions frequently sound plausible on their face, and there is a temptation to answer them "yes" or "no" even when such an answer would not be completely accurate. If a question contains information which is partly true and partly false, an explanation is necessary. The explanation should be in your own words. Don't allow a cross-examiner to put words in your mouth. Remember that the Judge or jury will draw conclusions from your answers. The lawyer is not there to engage in polite conversation. He is trying to establish facts which he thinks will help his client. It is your duty to see to it that whatever is established by your testimony is "the truth, the whole truth, and nothing but the truth."
15. BEWARE OF COMPOUND QUESTIONS. If you are asked several questions rolled into one, it will usually be impossible to answer accurately unless you break them down. In such a case, you may say, "That contains several aspects, which I'll try to answer one by one." Or, if the question is too long, you can say, "Can you break that down for me and ask me the questions one at a time?"

16. "ISN'T IT A FACT." Be careful of questions which start "Isn't it a fact that" or "The fact is isn't it?" These are usually leading questions containing implications which may be only partly true and which require an explanation. Some cross-examiners will disguise leading questions by saying "isn't that correct" or "isn't that true" at the end of the question.
17. YOU MAY BE INTERRUPTED. When you explain an answer, you may often be interrupted by the cross-examiner, who will start the next question. Let him finish and then bring him back to your unfinished answer. "Before I answer that, I want to finish my answer to our last question." This is very important, because the cross-examiner may try to stop you before you have answered the rest of the question which explains the first part of the answer. You have to say whether you were finished because the Government counsel doesn't know if you were through or not.
18. BEWARE OF EXACT DISTANCES AND TIMES. The cross-examiner will frequently suggest to you distances and times of events when you do not recall the actual time or distance. Do not agree with him unless you would independently arrive at the same estimate as he gives. If you make an estimate, be sure to say its only an estimate.
19. YOU HAVE TALKED WITH GOVERNMENT REPRESENTATIVES. There is no secret about the fact that you have talked with an Assistant U.S. Attorney, or with other Government agents. Indeed there is no secret, or course, about anything you know about the case once you are on the stand. You will be under oath to tell whatever you know about what you are asked. Some witnesses may think there is something improper about talking to the lawyer before trial and going over your testimony, and when asked if they talked with anyone will answer "no." The credibility of such a witness is, naturally, entirely destroyed because no lawyer will put a witness on the stand without talking with him first. Your conversations with Government agents may however, be the subject of leading questions designed to create a false impression. For example, if you are asked "Did you discuss your testimony?" and say "no" the impression is that you didn't talk with anyone; if you say "yes" the implication is that you were told what to say. Here, as with other leading questions, state the facts in your own words. For example, if it is true you can say "I talked with the Assistant and he asked me questions, and he told me to tell the truth."
20. YOU MAY BE ASKED ABOUT PRIOR STATEMENTS. Under the law, counsel may get to see prior statements you may have made to Government agents or other persons. One group of questions may be designed to learn whether you made such statements. If you did sign a written statement, or if someone took notes while you were interviewed, there is no secret about that. On the other hand, if you are not sure, do not assume that someone was taking notes. If you are not sure whether notes were taken or whether you signed a statement, you can simply say that you can't recall.
21. DON'T BE UPSET IF THERE ARE SOME INCONSISTENCIES. Anytime a person tells the same story twice, no matter how carefully, there are likely to be at least some inconsistencies. If there is an inconsistency with a prior statement you made, simply tell the best recollection you have of what happened, and if there is an explanation for the inconsistency, state it. Sometimes it isn't your mistake, but the mistake of the one who took your statement.
22. YOU DON'T HAVE TO DISCUSS THE CASE WITH ANYONE. It is possible that counsel for the other party or someone on his behalf may ask to talk with you about the case. You are entirely free to do that if you want to, but you don't have to. Whether you do or not is entirely up to you. It is not up to the Government to tell you that you should or shouldn't discuss the case with the defense; but you should understand that you have no legal obligation to talk with anyone unless you wish to. The only time you are required to answer questions is on the witness stand or direct cross-examination. Also, if the other party wants to subpoena you, they can do so and you will have to answer their questions on the stand. That is the only time you are required to talk. If you do discuss the case prior to taking the stand with the other party or his counsel, remember that you will be asked about any claimed inconsistencies between what you say on the stand and what the other party or his counsel may believe you told them. You will not have a stenographic transcript to establish what you said or did not say. In the event, of course, that you are subjected to any threats or pressure, you should contact the U.S. Attorney's Office immediately. Should that happen, try to note down exactly what was said to you as soon as after the event as you can.

23. REMAIN DIGNIFIED ON THE STAND AT ALL TIMES. As a witness called on behalf of the United States in a Federal trial, it is your duty to remain dignified on the stand at all times. Never wisecrack in answer to a question or try to make fun of the cross examiner. He has a right to ask questions and have them answered in a serious manner. Do not answer a question with another question unless it is to ask the cross-examiner to clarify what he is asking. Answers such as "How am I supposed to remember?" or "What would you have done?" are improper.

24. SCHEDULING. The scheduling of the trial is up to the court and not the Assistant United States Attorney. The Assistant will make every effort to present your testimony at a time most convenient for you, but he cannot control the court's timetable. Occasionally, the schedule of the Judge and the other parties will require your testimony to be postponed a day or even moved forward. This may be inconvenient but it is necessary to be flexible so that the case may be presented fairly. You may be reimbursed at a minimal rate for your time spent in the preparation and presentation of your testimony.

25. YOU ARE PERFORMING AN IMPORTANT PUBLIC SERVICES. By testifying in a Federal trial, you are performing an important service for your country and fulfilling an important duty as a citizen. Some witnesses look on testifying as an inconvenience; this is wrong, because if we wish to have the benefits of laws and law enforcement we have to do our part to establish the facts. Even if your knowledge seems small, it may form a crucial part of a larger mosaic which must be established for the case to be decided properly. You should look on the duty to testify as an opportunity to play a significant part in an important function of a society governed by laws.

District of Columbia, Office of Civil Infractions

Hearing Preparation Form

To be used in conjunction with the Module IX discussion of inspectors as expert witnesses. It is designed to help inspectors organize their notes and recollections of events before providing testimony regarding inspections.

CIVIL INFRACTIONS HEARING PREPARATION FORM

1. My name is _____

2. I am employed by DCRA, _____
(Administration)

as an _____
(Inspector/Investigator)

3. My responsibilities as an investigator/inspector are

(ex. inspect housing facilities for code violations or investigate business establishments for regulatory compliance.)

4. On ___/___/___ at _____ I had the occasion to visit the premises located at
(Time)

5. The purpose of my visit was (regulatory inspection/survey)

6. Upon my arrival I observed: (describe)

7. During my inspection I spoke with _____
(Name)
who is the _____ of the premises.
(owner, manager, agent, etc.)
8. I explained to _____ the purpose of my visit and I properly identified
(owner, manager, agent, etc.)
myself.
9. I inspected the premises to ascertain whether or not (he/she) had the appropriate
_____ for _____
(e.g., license, c/o permit etc.) (nature of operation)
10. I advised the individual that he/she was in violation of D.C. code/DCMR _____
(Number) which states _____

11. I issued citation no. _____ to _____ (Name)
12. I checked agency records to substantiate that the individual did not have the required licenses
or permits. I checked the agency records in the following manner: _____

MODULE X:

REGULATED COMMUNITY RELATIONS

Desired Outcome for the Module:

Inspectors will be assertive enforcement officers and perform in a professional manner at all times, avoiding compromising their positions

Inspectors will know how to communicate clearly the purpose of inspection and what it means for the public

Inspectors will be able to decrease tension in uncomfortable situations and handle difficult people

Inspectors will know how to handle inquiries from the general public or the press

Inspectors will leave the class motivated to use field citations and make the program work

Teaching Aids:

Scenario for Handling Uncooperative Owners or Operators

Role Play for Handling Uncooperative Owners or Operators

Tips on Ethics

Approximate time: 1 hour

X. REGULATED COMMUNITY RELATIONS

A. Overview of Module

1. Inspector code of conduct
2. Tips on maintaining professional behavior on the job
3. Dealing with the regulated communities
4. Dealing with the public and the press

B. Code of Conduct

1. The integrity and professional impartiality of an inspector are crucial
2. Actions that seem innocent may be questionable
 - a. Avoid accepting coffee, food, or other "small favors" from owners or operators because it will compromise the professional relationship
 - 1) Bring meals or money for meals with you
 - 2) Simply refuse offers from owner or operators
 - b. "Small favors" can be misperceived by court or supervisors
3. If the program requires that inspectors handle money (i.e., payment of penalty), be particularly responsible and cautious in activities

C. Professional Behavior

1. Behaving professionally will only help inspectors in the long run; it will be hard to issue citations after being chummy during the inspection
2. Be consistent and fair
 - a. Violations should be cited using objective criteria to avoid situations of inconsistency among citations; the following are examples of inconsistency

Section B, concerning code of conduct, may be a sensitive subject among inspectors. Avoid sounding as though you question the conduct of the inspectors when you present this material. Stress how their actions may be perceived by others.

Section C discusses the role of inspectors in the community. A group discussion may be beneficial, especially if there are experienced inspectors in the group who are accustomed to a more personal relationship with owners and operators.

- 1) Inspector A always cites in a particular situation and Inspector B never does
- 2) Inspector A sometimes cites in a particular situation and sometimes doesn't
- b. Call supervisors if you are unsure about a situation
2. Be respectful in manner when issuing a citation and each person equally, no matter what an individual's attitude
3. Do not attempt to be a consultant
 - a. Provide owners and operators with names of contractors to help them correct violations, not giving a specific endorsement
 - b. Do not provide technical advice to owners and operators
 - 1) Providing technical advice will undermine an enforcement case if the information is incorrect
 - 2) An inspector's role is to monitor compliance, not to correct problems
4. Make a decision and act
 - a. Do not spend too much time debating enforcement options (field citations v. standard enforcement, etc.)
 - 1) Violation should be clear-cut enough that very little (if any) judgement is involved in deciding whether to cite
 - 2) If the violation is not clear-cut and the inspector needs time to think about it, the inspector should do so; citations can be issued after the inspection
 - b. Inspectors may revisit facilities, if necessary

D. Conflict and Criticism

1. The relationship between inspectors and owners and operators is likely to be adversarial
 - a. Owners and operators may not be used to receiving citations and may resent the inspector and the program
 - b. Owners and operators are likely to have animosity toward inspectors who must issue them citations
 - c. Direct contact with an inspector may incite an owner or operator ("having someone there to yell at")
2. Inspectors may find that owners and operators are angry because they are being hit "in the pocketbook"

In Section D, allow the group to come up with reasons why the relationship between inspectors and owners or operators is likely to be adversarial, in order to get all these issues out on the table and discussed. You want to convey the fact that conflict is to be expected and that the owner's or operator's frustration is really not directed at the inspector but rather at "the system." Very few people want to be out of compliance and even fewer like it when they are caught at it. It is natural to become defensive and there is an art to handling such situations effectively.

E. Dealing with an Irrate Person

1. The only "right" way to resolve conflict is whatever works in a given situation
2. It is useful to put yourself and the person on the same side as soon as possible, implying that you can work together
 - a. "Let's take a look ..," or "Let's see if we can ..."
 - b. "I'm getting confused" instead of "You are confusing me"
 - c. Inform the owner or operator know that you can put them in touch with people that may help to solve problems
3. People love to hate a government agency
 - a. People will be less likely to attack inspectors personally if it is apparent that inspectors are only trying to perform their jobs
 - b. Remember that anger is ultimately directed toward the citation, not you

Section E provides the inspector with ideas for dealing with irate owners and operators. The sections may be followed or preceded by a group discussion of situations or a role play between inspectors (attached). Role play and discussion will allow both new and old inspectors to help each other.

4. Effective communication involves tone of voice and body language as well as a person's words
5. It is helpful to build rapport with an angry person
 - a. Rapport does not mean that people necessarily like one another, just that they have found a way to communicate
 - b. Threatening or condescending speech or manner should be avoided
 - c. Listening actively and showing it by responding is a good way to build rapport
 - d. Trying to understand the other person's concerns will make the exchange more positive
6. Think in terms of "outcomes"
 - a. A desired outcome is a specific result to be achieved stated in positive terms and visualized
 - b. Thinking positively about what must be done can help to accomplish it
 - c. The desired outcome for most inspector situations will be to do the job with a minimum of conflict, in a courteous, efficient, and effective manner
7. A good method to decrease tension is allowing the other person to vent anger
 - a. Stay calm
 - b. Remain calm and in control although feeling anxious
 - c. Change the situation if overwhelmed, e.g., standing up, sitting down, changing seats, walking outside, etc.
 - d. Resist the temptation to say "just calm down" as it only serves to fuel anger
 - e. Demonstrate how the other person should act by remaining calm

- f. Get on with business when the other person cools down
- g. Leave if the other person is belligerent and the situation seems too difficult to resolve

F. Handling Questions from the Public and Press

1. The citation program may attract attention because it is new and visible
2. Citations may make the public more aware of environmental hazards and, therefore, more aware of the program meant to alleviate the hazards
3. The press may wish to question inspectors on inspection findings or issuing of citations
 - a. The press may want to find out if there are problems at facilities
 - b. The press may simply be curious about the new program
4. The public may question inspectors about findings at facilities; this may be out of concern for health
5. Follow agency policy in answering questions
 - a. Be completely sure about answers; if not sure, say so, or don't answer (say "I'll check")
 - b. Names of complainants in enforcement cases should be left out of discussions as much as possible

Section F is a discussion of how inspectors should handle inquiries into their actions, those of administrators, or questions concerning public health and safety. Cover program policies on the topic, e.g., inspectors may answer questions from the press if they feel confident about their answers, or inspectors should direct press questions to administrators.

Module X: Teaching Aids

- Scenario for Handling Uncooperative Owners or Operators
- Role Play for Handling Uncooperative Owners or Operators
- Tips on Ethics

SCENARIO X-1

This scenario will allow inspectors to practice handling uncooperative owners or operators. It should help inspectors to define their professional role.

The inspector issues a citation to Mrs. Claudio, the operator of a franchise of a large national chain of gas stations. Mrs. Claudio takes one quick look at the citation and hands it back to the inspector. She tells the inspector that the chain is responsible for technical and legal matters and she does not handle these affairs at all. She tells the inspector to issue the citation to a regional manager of the chain who is responsible for it. The only other employee on site is a teenager who pumps the gas. Mrs. Claudio refuses to accept the citation.

Suggested Questions:

- 1) Should the inspector issue the citation to Mrs. Claudio, the teenager, post it on site, or find another way of delivering it to the regional manager of the chain?
- 2) What can the inspector say to the owner?

Expected Outcome: Inspectors should recognize that the inspector could issue the citation in another manner, wait until another day, or continue to try and reason with the owner. The inspector may have several options in this situation. Stress correct procedures and help inspectors to "rank" options.

ROLE PLAY

This scenario will allow inspectors to practice dealing with uncooperative owners and operators. It should help inspectors to define their professional role. The instructor should choose one of two delivery options for the scenario:

Ask for two volunteers and provide them with this script some time before the community relations module. Allow the volunteers time to review the script (and rehearse if they wish) before asking them to present this scenario in front of the class. Follow the presentation with questions for the class or a group discussion.

OR

Divide the class into groups of two and have all of the groups act out the scenario concurrently. Move around the room observing the students while the role plays are being performed. The students should perform the role play twice, once in each role. After this session, ask questions and generate a group discussion.

SCENE: The inspector is on site at a facility and discovers there is no monitoring well installed for Tank #3. The inspector must issue a citation to the operator, who is the person in charge on site at the time of the inspection. During the inspection, the operator has been relatively cooperative, but obviously not pleased about the inspection. The operator is suspicious of the inspectors who come "poking around the property."

INSPECTOR: I am going to have to issue you this citation for failure to have a monitoring well installed and in good operating condition for Tank 3. You will have 30 days to correct the violation and submit the fine payment of \$100 to the address on the citation or request a hearing to dispute the citation. I will be conducting a follow-up inspection at the end of 30 days to determine whether you have complied with the citation and properly installed the monitoring well. I can give you a list of contractors who can

help you. If the violation is not corrected by the time of the reinspection, the department will take further enforcement action.

OPERATOR: (looking disgustedly at the inspector) Look here. That tank has been in place and operating for 10 years, and there are monitoring wells all over this place. I have never had a leak occur on the premises, and I don't see what the problem is. I certainly don't need some high-priced contractor here.

INSPECTOR: I understand that the tank system has always functioned, and I understand that you have not had a release at the facility in the past, but there needs to be a monitoring well installed at Tank #3 so that if there is a release, you'll know about it. If you want more information about the regulations or the citation, I can give you the name of someone to call in my department with your questions, but I still must issue you this citation...

OPERATOR: (cutting the inspector off) There is nothing wrong with my facility and I don't care what your regulations say. I have done everything I need to follow your regulations. I have been operating the system for ten years and I should know what works and what doesn't! You don't know a thing about my facility!

INSPECTOR: I realize that you have been operating your facility without a release for ten years, but my job is make sure that everything at the site is in place and working according to the regulations so that the environment is protected today. I have found a violation, and I will have to issue you a citation for the violation that you will have to correct.

OPERATOR: Well, I don't have to accept it.

INSPECTOR: (Fills out the citation on the top of a file cabinet. Holds it out to the operator.) Before I leave your facility, I need you to sign this citation. It doesn't mean that you admit to the violation or not, merely that you received the citation.

OPERATOR: I'm not signing anything.

INSPECTOR: Signing this citation does not mean that you admit that there is a violation. I need to have you sign it to show that I discussed the situation with you. Again, I just need you to acknowledge that you received the citation. Here is the name of my supervisor, you can call her if you have questions.

OPERATOR: (Taking the citation out of the inspector's hand and ripping it up.) I want you to leave my premises now! I'm not signing anything!

Suggested Questions

- (1) Should the inspector continue to try and reason with the operator or leave the premises?
- (2) What is best way for the inspector to handle the citation?

Expected Outcome: The inspectors should identify professional behavior traits appropriate to this situation and review that options that are available in situations with difficult owners or operators, such as leaving the site or continuing to reason with the difficult person. Inspectors may examine the possible reasons for the operator's hostility. Inspectors should practice their response to difficult people and work on developing a style that feels comfortable for them.

EPA's Office of Enforcement and Compliance Monitoring (OECM)

Tips on Ethics

To be used in conjunction with the Module X discussion of ethical behavior for inspectors.
This handout can be used to reinforce the concepts presented in the "ethics" section.

ETHICS

The integrity and professional impartiality of an inspector are crucial, because any of the inspector's findings that identify problems can be subject to challenge by the regulated party. Enforcement actions based upon the inspector's work may represent a major commitment of the Agency's funds and time, yet success before an administrative law judge or a U.S. Court may hinge upon the inspector's freedom from bias or even apparent bias. This gives the highest importance to the inspector's compliance with regulations governing conflict of interest and ethics.

Inspectors should familiarize themselves with the laws and regulations concerning conflict of interest and ethics. Helpful material has been published by EPA's Designated Agency Ethics Official, in the Office of General Counsel. Each EPA office has a designated Deputy Ethics Official, who is available to discuss confidentially any questions an employee may have as to how these regulations apply to his or her situation.

Conflict of Interest

The Federal law 18 U.S.C. Section 208(a) bars a Federal employee from participating in any proceeding in which the employee (or spouse or minor child or others with whom the employee has specified relationships) has a financial interest, regardless of size. The penalties for violating this law may be as much as \$10,000 fine and two years imprisonment. The prohibited relationships include certain roles in nonprofit organizations and relationships with potential employers, as well as ownership of stocks, bonds, etc.

Standards of Conflict

EPA's regulations at 40 CFR Part 3 set forth restrictions and requirements concerning actions that create an appearance of impropriety, outside employment, and similar matters. Under these regulations, employees must avoid any action that might result in or create the appearance of:

- Using public office for private gain.
- Giving preferential treatment to anyone.
- Impeding Government efficiency or economy.
- Losing independence or impartiality.
- Making a Government decision outside official channels.
- Adversely affecting public confidence in the integrity of the Government or of EPA.

Questions Frequently Asked About Inspections

Topics concerning conflict of interest and ethics that are often raised in connection with inspections are the following:

- Gifts, Favors, Luncheons. Inspectors must avoid accepting favors or benefits under circumstances that might be construed as influencing the performance of official duties. EPA regulations provide an exemption whereby an inspector could accept food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting, or during an inspection tour. Inspectors should use this exemption only when absolutely necessary, such as at remote locations where public eating places are not available.

- Use of Information. All information acquired in the course of an inspector's duties is for official use only and cannot be mentioned to those outside the Agency. Information that has not been made available to the general public (even if it would be made available on request) cannot be used to further a private interest. Inspectors should not speak of any product, manufacturer, or person in a derogatory manner.
- Vehicles. Motor vehicles owned, leased, or rented by the Government may not be used for non-official purposes.

Where to Seek Advice

Guidance on the ethics laws and regulations is available from EPA's ethics officials. Almost every situation that could arise in an inspector's work has already been considered by these officials in response to earlier inquiries from inspectors, so they are prepared to answer most questions promptly. To seek advice, an inspector should do either of the following:

- Consult the Deputy Ethics Official for the inspector's duty unit. This would be the Office Director, Staff Office Director, Laboratory Director, Regional Administrator, or Deputy Regional Administrator. The Regional Counsels serve as Deputy Ethics Officials for their offices.
- Call the Office of General Counsel or Office of Regional Counsel for legal advice or referral to the Designated Agency Ethics Official or Alternate Agency Ethics Official.

MODULE XI:

WRAP-UP DISCUSSION

Desired Outcome for the Module:

Re-cap primary points covered in the training

Answer final questions inspectors may have regarding field citations

Teaching Aids:

None

Approximate time: One half hour

XI. WRAP-UP DISCUSSION

- This training provides you with all the information you will need to effectively issue and follow-up on field citations.
- Your field citation program will increase your effectiveness as an inspector by allowing you to address violations directly and see cases through from beginning to end.
- The new responsibilities this program entails will require adjustment in ideas and in roles; your relationship to owners and operators, for example, will change as a result of the program.
- At the beginning of the program, before you are accustomed to issuing field citations, it will be especially important for you to follow procedures exactly.
- The field citation program's success is completely dependent upon your attitude and efforts. Your willingness both to teach and to learn from other inspectors will be the most important part of your field citations training.
- Field citations will allow you to work through cases more efficiently since violators have a strong incentive to address the cited violation and pay a modest fine.
- The field citation program's focus on the inspector gives you new and greater responsibilities, as well as more control of your work. Administrative and legal staff may not be involved at all in many of the cases.

The training should end with a wrap-up discussion of expedited enforcement and a pep talk motivating inspectors to use citations. You should stress again the benefits of field citations for inspectors, such as increased responsibility and decreased frustration.

Encourage inspectors to bring up any topics that concern them, and allow the group to work through the issues together.

