

# NPDES Compliance Inspection Manual

## *Appendix D*



EPA Publication Number: 305-K-17-001  
Interim Revised Version, January 2017



## Appendix D – EPA’s Memorandum on Practices to Follow and Avoid when Requesting Information



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 18 2002

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

**SUBJECT:** Practices to Follow and Avoid When Conducting Compliance Inspections:  
*Requesting Information*

**FROM:** Michael S. Alushin, Director *M.S. Alushin*  
Compliance Assessment and Media Programs Division

**TO:** Addressees

This memorandum transmits a list of practices which are recommended to be followed and avoided when requesting information during compliance inspections. This list was prepared in consultation with staff from the Office of Regulatory Enforcement to address concerns expressed by Congress with regard to overly burdensome requests for information by EPA compliance inspectors. It is recommended that all EPA compliance inspectors follow or avoid these practices, as appropriate. Please distribute this list to the inspectors in your respective organization.

Thank you for your attention. We hope this guidance improves the understanding of procedures to follow when requesting any information while conducting compliance inspections. We encourage all EPA Compliance Inspectors to follow these good practices.

If you have any questions, please contact Julie Tankersley at (202) 564-7002, or email at [tankersley.julie@epa.gov](mailto:tankersley.julie@epa.gov). This list of good practices will also be posted on the EPA Inspector website at <http://intranet.epa.gov/oeca/oc/metd/inspector/>.

Attachment

List of Addressees:

Regional Enforcement Division Directors, Regions 1-10  
Regional Media Division Directors, Regions 1-10  
Regional Science and Technology Division Directors, Regions 1-10  
Regional Enforcement Coordinators, Regions 1-10  
Michael Stahl, Director, Office of Compliance  
Lisa Lund, Acting Deputy Director, Office of Compliance  
OC Division Directors  
Connie Musgrove, Acting Director, Office of Regulatory Enforcement  
George Lawrence, Acting Deputy Director, Office of Regulatory Enforcement  
ORE Division Directors  
Leo D'Amico, Director, Office of Criminal Enforcement, Forensics & Training  
OCEFT Division Directors  
Mary Kay Lynch, Director, Office of Planning, Policy Analysis, & Communications  
Diana Love, Director, National Enforcement Investigations Center  
David Lopez, Director, Oil Program Center  
Gary Jones

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**Practices to Follow and Avoid When Conducting Compliance Inspections**

January 22, 2002

**Purpose of Document**

A number of recent Congressional inquiries into the EPA's authority to request information to determine compliance prompted OECA to develop the following "Practices To Follow and Avoid When Conducting Compliance Inspections".

The Practices are designed to comply with legal and policy guidance. First, they ask that a case file be opened prior to conducting an inspection, which should include any research on potential violations at the facility. Second, they minimize the possibility inspectors will request information **not** considered part of a routine compliance inspection. Inspectors should **not** request information that should be collected under a formal information request using the authorities in each of the environmental statutes (i.e., CAA Section 114, RCRA Section 3007, CWA Section 308, TSCA Section 11, FIFRA Sections 8 and 9, SDWA Section 3001, OPA Section 311, CERCLA Section 104 ). These information requests are formal documents that can result in the commencement of an enforcement action by EPA pursuant to the enforcement sections of the statute.

**OECA expects EPA inspectors to follow the good practices and those to avoid listed below.**

**Good Practices to Follow When Conducting Compliance Inspections**

- Conduct research on the potential for violations before conducting inspections
- Open an individual enforcement case file (a physical or electronic file with the facility name, location, previous inspections, etc.) prior to conducting inspections
- Use inspection checklists only as a guide. Don't follow the checklist blindly. Tailor your questions to the individual facility. It is generally not required to ask every question on the checklist at every facility.
- Use of an inspection checklist should be used for the purpose of determining compliance or supporting an active or planned enforcement action.
- Additional questions asked of facility personnel should be related to the direct observations noted during the field portion of the inspection or based on prior research.
- Basic questions such as number of employees, engineering drawings, hours of operation are allowed to be asked even if they are not specifically "required by regulations"

**Practices to Avoid When Conducting Inspections**

- × Avoid asking questions as a general survey of the facility or class of facilities
- × Avoid asking questions which are unrelated to the purpose of the site visit
- × Avoid asking for information from the facility during the inspection that is onerous and may take more than a few days to provide.
- × Avoid asking questions that are typically included in a statutory "information request" (e.g., CAA 114 requests or RCRA 3007 request)