

outside the scope of required compliance assessments as well as to violations discovered during required compliance assessments and to violations discovered by the regulator during the course of an inspection. While the *Audit Policy* and the *Small Business Policy* do not provide penalty relief for repeat violations, the *Small Communities Policy* allows application of the policy to communities with a history of noncompliance if the State determines that the community has been acting in good faith and to the best of its ability to address violations and achieve compliance. The *Audit Policy* and the *Small Business Policy* generally allow disclosing violators no more than 60 days and 90 days, respectively, to correct their violations (the *Small Business Policy* will allow 180 days for corrections if the violator first submits a written schedule, and up to 360 days for corrections if the violator will correct the violations by putting pollution prevention measures in place). The *Small Communities Policy* gives communities up to 180 days to correct violations without a written agreement and schedule, but, if a community cannot achieve compliance within 180 days, the policy permits the community to enter into a written and enforceable agreement with the State establishing a schedule for the community to address all of its violations as expeditiously as practicable in order of risk-based priority. Also, the *Audit Policy* and the *Small Business Policy* do not require, as the *Small Communities Policy* does, that noncompliers evaluate their compliance with all applicable regulatory requirements. This significant difference between the *Small Communities Policy* and the other self-disclosure policies is the best illustration that the *Small Communities Policy* has a different purpose. The *Audit Policy* and the *Small Business Policy* are intended to provide incentives for regulated entities to conduct self-audits and disclose the violations they discover. The *Small Communities Policy* is intended to encourage States to conduct comprehensive evaluations of their small communities' compliance with every environmental requirement that applies to the community's governmental operations, and then work with communities to help them build the technical, managerial, and financial capacity they need to achieve and sustain comprehensive environmental compliance.

#### IV. The January 23, 2002 Federal Register Notice

Although State comprehensive environmental compliance assistance

programs have provided compliance assistance to more than 250 small communities since EPA issued the *Small Communities Policy*, most of that activity took place in just two States. In discussions with small community and State stakeholders questioning why so few States had implemented the policy, EPA learned that many stakeholders find aspects of the policy problematic. Some stakeholders believe that the *Small Communities Policy*'s population cap of 2,500 is too low. Many States point out that EPA has not provided funding for States to establish programs offering comprehensive environmental compliance assistance to small communities. Many small communities do not see how participating in a State's comprehensive compliance assistance program would benefit them. These and other perceived shortcomings of the policy were seen as impediments to its more wide-spread implementation among the States.

On January 23, 2002, EPA published a **Federal Register** notice (67 FR 3185) requesting public comment on possible revisions to various aspects of the *Small Communities Policy*. The **Federal Register** notice sought comment on: (1) Raising the policy's population cap to allow participation of larger (but still small) communities; (2) allowing comprehensive environmental compliance assistance projects confined within the "fenceline" of one of a community's operations; (3) reducing the resource burdens associated with establishing and participating in comprehensive environmental compliance assistance programs; and (4) enhancing incentives for both States and small local governments to participate in such programs. The **Federal Register** notice also discussed the relationship between actions undertaken in accordance with the *Small Communities Policy* and actions undertaken as part of an environmental management system (EMS). EPA noted that if a small local government receiving comprehensive environmental compliance assistance from the State were to develop and implement an EMS as part of its strategy to address its noncompliance, the local government should incorporate its EMS activities into the written and enforceable agreement and the schedule required by the policy. Finally, EPA requested comment on more general aspects of the *Small Communities Policy*, including the policy's definition of community, the time frames for disclosure and correction of violations, and the types of violations to which the *Small Communities Policy* would apply.

EPA received comments from ten respondents. A summary of these

comments and the comments themselves are available from EPA's Enforcement and Compliance Docket and Information Center (EDIC) in the EPA Docket Center (EPA/DC), EPA West Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number of the EDIC is (202) 566-1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then type in the docket ID number identified above.

#### V. The Role of the EPA Inspector in Providing Compliance Assistance During Inspections

On June 25, 2003, EPA issued a national policy titled: *The Role of the EPA Inspector in Providing Compliance Assistance During Inspections (Inspector Policy)*. EPA's *Inspector Policy* concerns the actions of EPA inspectors, not State inspectors, conducting compliance inspections, but it can provide useful guidance for States. The *Inspector Policy* encourages EPA inspectors' current practice of providing compliance assistance during on-site compliance inspections, and clarifies what compliance assistance is appropriate in such circumstances. The *Inspector Policy* can be accessed at [www.epa.gov/Compliance/resources/policies/monitoring/inspection/inspectorrole.pdf](http://www.epa.gov/Compliance/resources/policies/monitoring/inspection/inspectorrole.pdf).

#### VI. Proposed Changes to the Small Communities Policy

EPA today proposes replacing the term "community" with the term "local government" as derived from U.S. Census Bureau definitions. This change, which clarifies EPA's intent to focus compliance assistance on small governmental entities, is also reflected in the title of the revised policy: the *Small Local Governments Compliance Assistance Policy*. EPA also proposes three major changes to the *Small Communities Policy*, one related to the cap on the population of participating local governments, one allowing projects of restricted scope in some circumstances, and one encouraging local governments to develop and implement EMS. These changes are intended to make it easier for more local