



Federated States of Micronesia

Compliance and Enforcement Training 2012

Environmental Protection and Fisheries

Analysis of Feedback Report

Prepared by:
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Chief Executive Officer
Australian Centre for Environmental Compliance



Acknowledgements

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- All the course participants
- Andrew Yatilman, Director of the FSM Office of Environment and Emergency Management (OEEM)
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- Laylani Phillip, OEEM
- Glenn Tritton, Director Compliance NSW Fisheries
- Yvonne's Hotel Conference Centre
- Australian Volunteers International
- AusAID

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Part 1

Analysis of Feedback

1.1 Introduction

This report was prepared by the Australian Centre for Environmental Compliance (ACFEC),¹ which developed and delivered environmental compliance and enforcement training at Yvonne's Hotel Conference Centre, Pohnpei in the Federated States of Micronesia (FSM) from 23 to 27 July 2012.

The principal trainer was Roger Ilitch of ACFEC with the assistance of Peter Courtney (Operational Manager, Fisheries Victoria). Dr Justin Rose assisted throughout the course and provided valuable input.

Administrative support was provided by Laylani Phillip and Lorna Johnny.

Twenty-four people participated in the course. The participants were government environmental officers from:

- Yap Environment Protection Agency
- Yap Department of Resources and Development
- Yap Fishing Authority
- Yap Department of Justice
- Chuuk Environment Protection Agency
- Chuuk Department of Fisheries
- Kosrae Department of Resources
- Kosrae Island Resource Management Authority
- Pohnpei Department Public Safety, Fish & Wildlife Division
- Pohnpei Environment Protection Agency
- Pohnpei Department of Fisheries and Agriculture
- FSM Department of Resources and Development

¹ Registered under the Australian Vocational Training Framework for delivery of nationally recognised training.

The primary objective of the training was to enhance compliance capacity in environmental protection in the FSM.

The training was competency-based and contextualised. Delivery focused on a number of field scenarios.

At the conclusion of the course, certificates of completion were issued. A sample certificate is annexed at Schedule 1 to this report.

At the conclusion of the training feedback forms were given to the officers for completion. The feedback form was provided by ACFEC with some further questions added by Dr Justin Rose. The participants were instructed that the feedback forms were confidential and that the trainers would not be present while the forms were completed. The feedback form has been annexed at Schedule 2 to this report.

The data contained in the feedback forms provides important and valuable information that can be used to identify future training needs and drive strategic decision making around compliance and enforcement training. The empirical data is represented as tables and charts in Part 2 and 3 to this report. Comments from participants are included verbatim in Schedule 3.

1.2 Legal context

The course focused on state responsibilities and did not cover compliance issues associated with the Exclusive Economic Zone.

The laws and regulations that formed the basis of the training included:

1. FSM Constitution
2. Pohnpei Code Title 26 – Conservation and Resources
3. Pohnpei Code Title 27 – Environmental Protection
4. Pohnpei Code Title 29 – Fisheries
5. Chuuk Code Title 22 – Environmental Protection and Preservation
6. Yap Code Title 18 – Conservation and Resources
7. Kosrae Code Title 11 – Land and Environment
8. Kosrae Code Title 19 – Marine Resources

1.3 General comments and observations

The course brought together officers from each of the states: Pohnpei, Kosrae, Chuuk and Yap. While the legislative and operational issues did differ between states there was considerable sharing of ideas and common compliance issues.

During the course, Titles, Code and regulations from each state were examined.

The course involved a number of role-plays and scenarios including:

1. Giving of Miranda Rights and ethics
2. Conducting records of interviews, including preparing interview plans
3. Gathering and managing evidence
4. Taking images
5. Preparation of statements
6. Understanding the scope and use of regulatory powers
7. Determining elements of violations²
8. Situational awareness exercises
9. Notebook exercises
10. Investigation planning (such as use of an evidence matrix and planning in the field)
11. Determining the appropriate compliance action
12. Drafting notices and orders (e.g. clean up notices)

During the primary role-plays, conducted on 25th and 26th July 2012, feedback was given to all participants.

All officers were diligent and hard working. A number of directors attended which provided valuable input into operational and jurisdictional issues. The directors and the facilitators engaged in numerous discussions outside the scheduled training on environmental issues of concern.

At the conclusion of the course, the participants were provided an electronic copy of the learning materials, including a number of precedent compliance forms for use.³

² This aspect was critical to the officers understanding the violations. The writer observed that some officers did not fully understand that some violations required knowledge to be demonstrated.

³ The hard copy materials were lost by the airline carrier in transit to Pohnpei and notwithstanding attempts to have them located they did not arrive.

1.4 Recommendations

The feedback forms, along with verbal comments during the training, demonstrate a need for compliance and enforcement training. This includes promoting and encouraging voluntary compliance by various stakeholders in addition to the use of different compliance options such as civil remedies, administrative hearings, customary settlements, citations, administrative actions and criminal proceedings.

Improving skills in compliance is in no way inconsistent with other environmental protection strategies such as public education or community-based initiatives. It is in fact complementary of these, for example, representatives of community-based organisations playing active roles in managing local marine protected areas could be key recipients of future training, adjusted appropriately to their needs.

For government officers the need for compliance and enforcement training extends to developing a greater awareness of legislative frameworks, including gaps in legislation and opportunities for improvements.

For example, during the conduct of the field scenario that involved the investigation of works⁴ that did not comply with the general and special conditions of the permit⁵ and earthmoving regulations, the officers through their own research and with the assistance of the trainers concluded:

1. The conditions of consent were not enforceable, as the enabling legislation did not create a power to impose conditions or terms on the permit.
2. That the standard conditions in the earthmoving regulations would have to be relied upon.
3. That the Pohnpei Environment Protection Agency (EPA) did not have approved forms relating to the power to issue clean up orders.⁶

⁴ Consent was provided by the local Fishing Club to use a site where a landfill was being undertaken along the existing bank of the foreshore. This provided a realistic and contextualized scenario. The second scenario for fisheries officers involved the investigation of taking fish from a Marine Park, including taking undersize fish. Thanks are given to Justin Rose for making available his fishing boat for the scenario.

⁵ A precedent permit and conditions was provided by Pohnpei Environmental Protection Agency for use in the scenario.

⁶ An assessment item was developed during the course for the preparation of a clean-up order that the Pohnpei EPA could use in the future.

4. That the information contained in the cease and desist order that was required to be issued during the scenario required clear and unambiguous terms.

Recommendations

1. That the relevant Attorney-General's departments are requested to provide instructions on procedural matters regarding briefs of evidence, the use of civil remedies, the application of knowledge requirements, access to original evidence, consideration of customary settlements and format for statements and affidavits.
2. That courses are delivered in a format similar to the July 2012 course, but are specifically contextualized to the laws, processes and priorities of each state EPA and fisheries agency.
3. That future courses include a session regarding the application of operational planning using the SMECAC approach.⁷
4. That future courses provide some guidance on incorporating education and extension programs into the compliance approach, and in jurisdictions where civil society organizations are involved in environmental compliance, that these organizations be included in the training.
5. That an observer, such as a government legal officer, engaged by the respective department, is present during the training and role-plays to take notes of any relevant comments or statements regarding legislative change, environmental policy and operational issues. The information can then be considered in the appropriate forum, with the view to improving environmental protection and regulatory frameworks.
6. That Marine Park declarations or regulations, which include the boundaries of Marine Parks, are made available for use in training and as a reference for the participants. This reflects the absolute importance of officers knowing the boundaries of Marine Parks and Sanctuaries. This is particularly important as some Marine Parks and Sanctuaries are not adequately signed or otherwise marked. This can have adverse effect on the community's understanding of the regulation and management the Marine Parks and Sanctuaries.
7. That the procedures around arrest are further examined to ensure arrests are made in the appropriate circumstances and officers give effect to the rights of an arrested person.⁸

⁷ A number of participants indicated an interest in developing skills around the development of operational plans, given that joint operation were not uncommon. SMECAC is the format used for operational planning under the Australian Government Investigations Standards (AGIS) developed by the Australian Federal Police.

8. The course included sessions around field safety, including identifying hazards, treating hazards, personal protective equipment and situational awareness. Officers did provide stories of loaded spear guns being pointed at them and persons of interest being “very angry”. Risk management and situational awareness should be continued.
9. That risk management principles be included in training.
10. For EPA courses, a session around the drafting of terms and conditions should be included.
11. An element of violation manual for each jurisdiction would be very helpful for officers.
12. That the use of infringement notices is promoted as an administrative action.
13. That further training is provided on strategic compliance planning.
14. That customary law is included in all training.
15. That compliance training include the planning and conduct of post approval audits.
16. That training in administrative law principles such as show cause provisions is included or developed.
17. That agencies be supported in continuing to develop and implement robust Environment Impact Assessment.
18. That the current compliance guidelines for each State are reviewed and updated.
19. That representatives from Police or Emergency services are invited to participate or act as role players.
20. That a network for sharing ideas between states regarding compliance matters is developed and supported by annual workshops.

⁸ During discussions in the workshop it was evident that arrests have been made where persons are found violating regulations relating to Marine Parks.

1.5 Other opportunities to improve compliance processes

A. To improve compliance capacity a number of selected officers (2 to 3) from each state are provided training in the development and delivery of training programs, not dissimilar to the elements of the Certificate IV in Training and Assessment. The training should include:

1. Developing training materials, training plans, preparing assessment (including validating assessment);
2. Delivering training in-house, to community groups (such as education programs) and other stakeholders; and
3. Conducting assessment where required.

This could be integrated into the delivery of any future compliance training by way of participants assisting in role-plays and developing materials for assessment.

B. The potential for support from Australian agencies such as NSW Fisheries to provide resources for the development of Marine Park signage that would serve both regulatory and educational functions.

C. Linking compliance matters to community engagement programs.

D. Developing more formalised relations with the IUCN Oceania.

E. The development of relationships with Australian agencies such as the Sydney Catchment Authority with the objective of ensuring safe domestic water supply and catchment protection.⁹

F. Development of compliance training in catchment protection, food safety and environmental impact assessment.

G. Greater use of Channel 18 in educating the community.

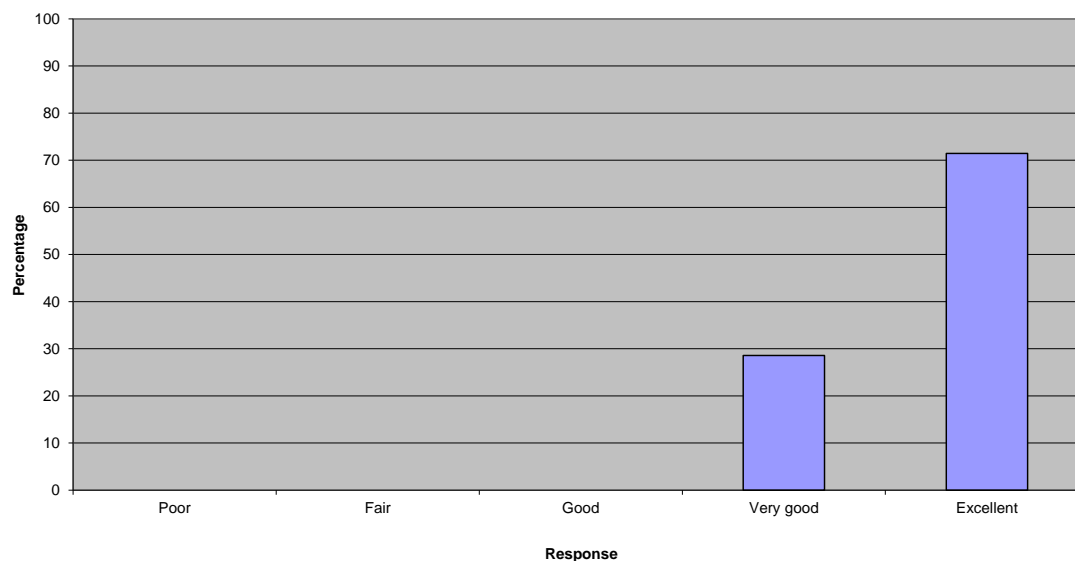
⁹ ACFEC delivers training to the Sydney Catchment Authority. There are opportunities to further develop enhanced knowledge and capacity in water testing.

Part 2

ACFEC Feedback

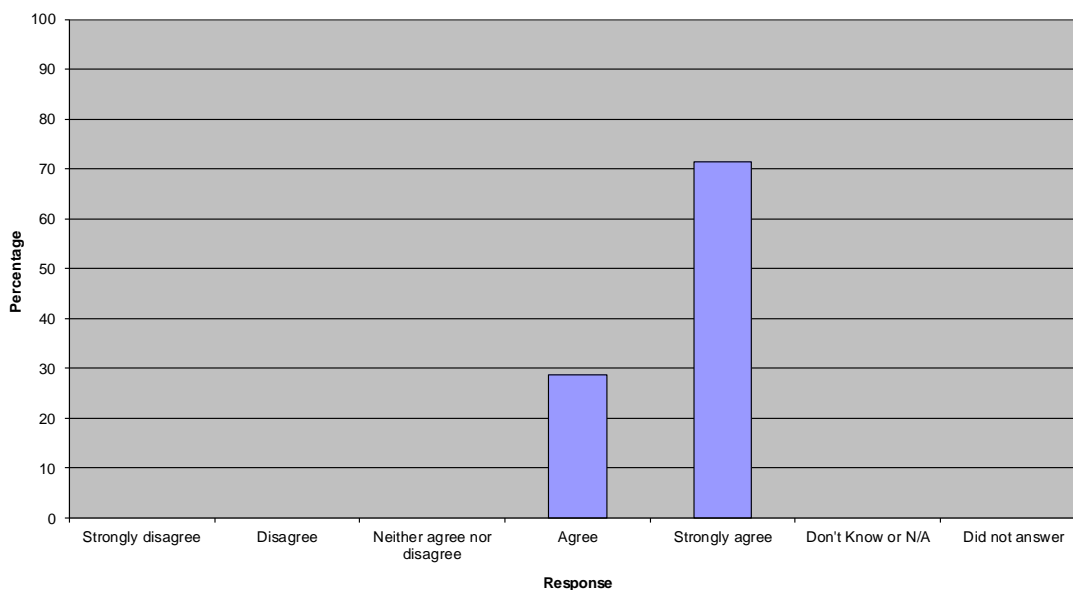
The relevant data was collated from the ACFEC feedback forms. Below are the questions and responses of participants:

1. Thinking in general about the course, how would you rate it overall?



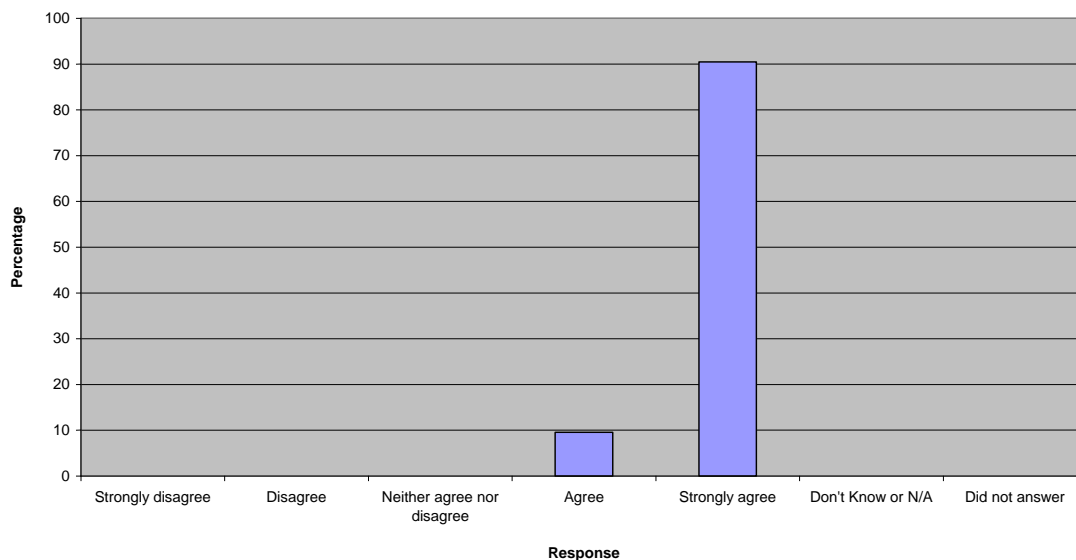
| Response | Poor | Fair | Good | Very Good | Excellent | Total |
|-----------------|------|------|------|-----------|-----------|-------|
| No of Responses | 0 | 0 | 0 | 6 | 15 | 21 |
| % | 0% | 0% | 0% | 29% | 71% | 100% |

2.1 You were given a clear idea of what the course entailed at the beginning.



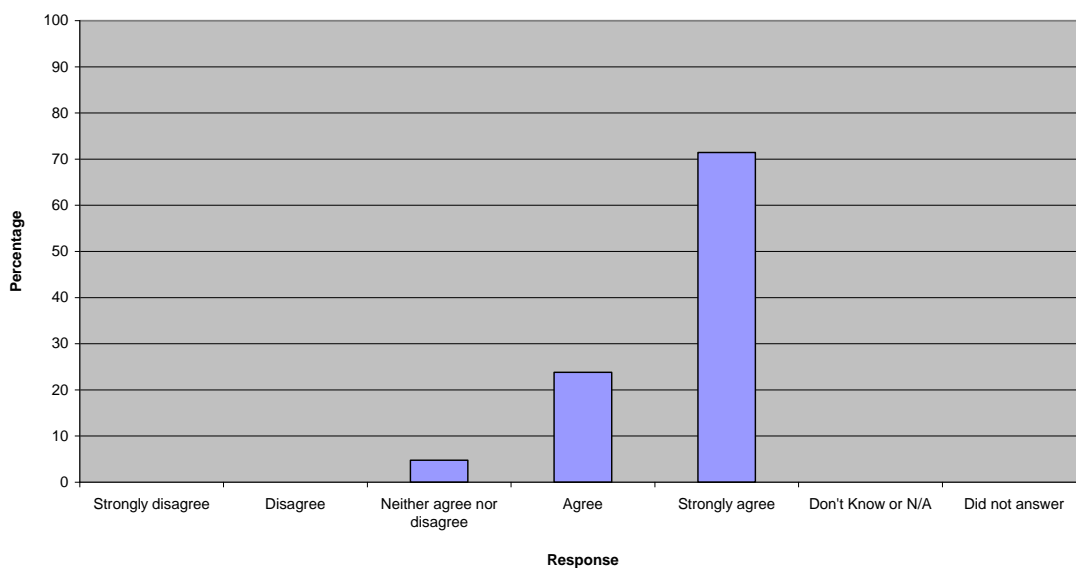
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't Know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 0 | 6 | 15 | 0 | 0 | 21 |
| 0% | 0% | 0% | 29% | 71% | 0% | 0% | 100% |

2.2 The topics covered in the course were interesting



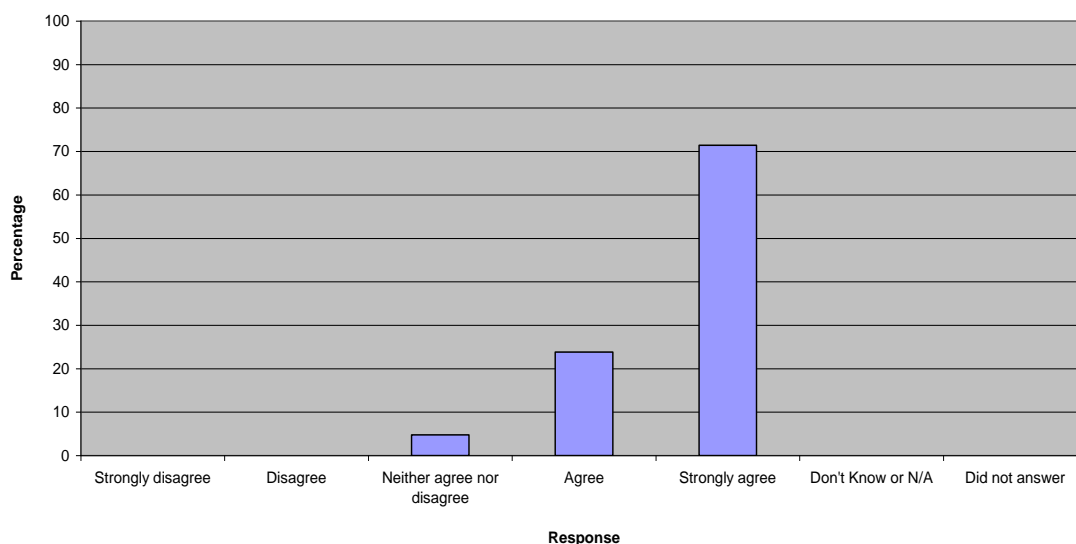
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 0 | 2 | 19 | 0 | 0 | 21 |
| 0% | 0% | 0% | 10% | 90% | 0% | 0% | 100% |

2.3 The topics covered in the course were sufficiently challenging for you



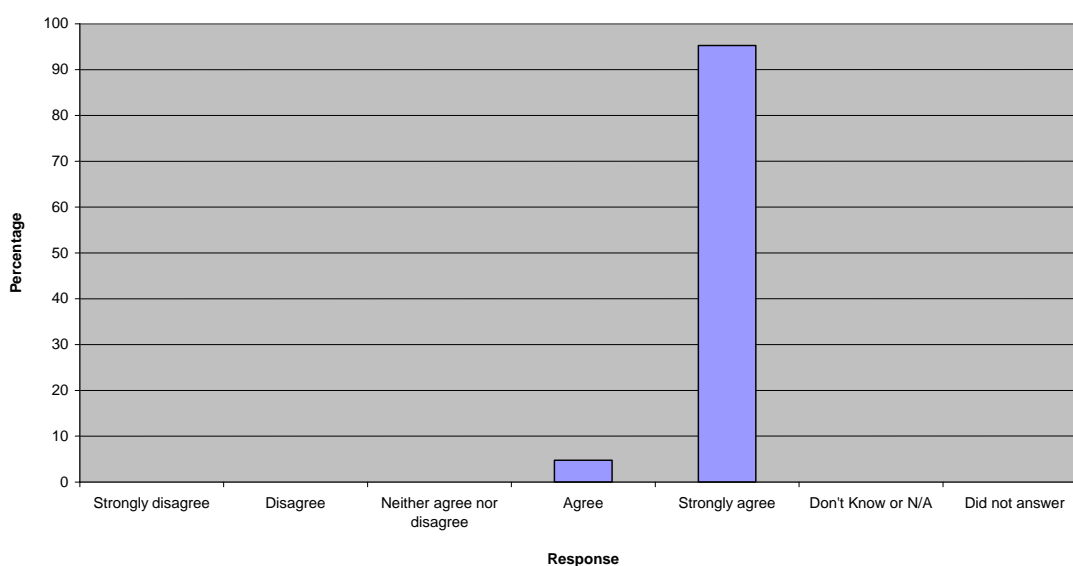
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 1 | 5 | 15 | 0 | 0 | 21 |
| 0% | 0% | 5% | 24% | 71% | 0% | 0% | 100% |

2.4 The way in which you developed skills through the course matches the skill you are required to develop on the job



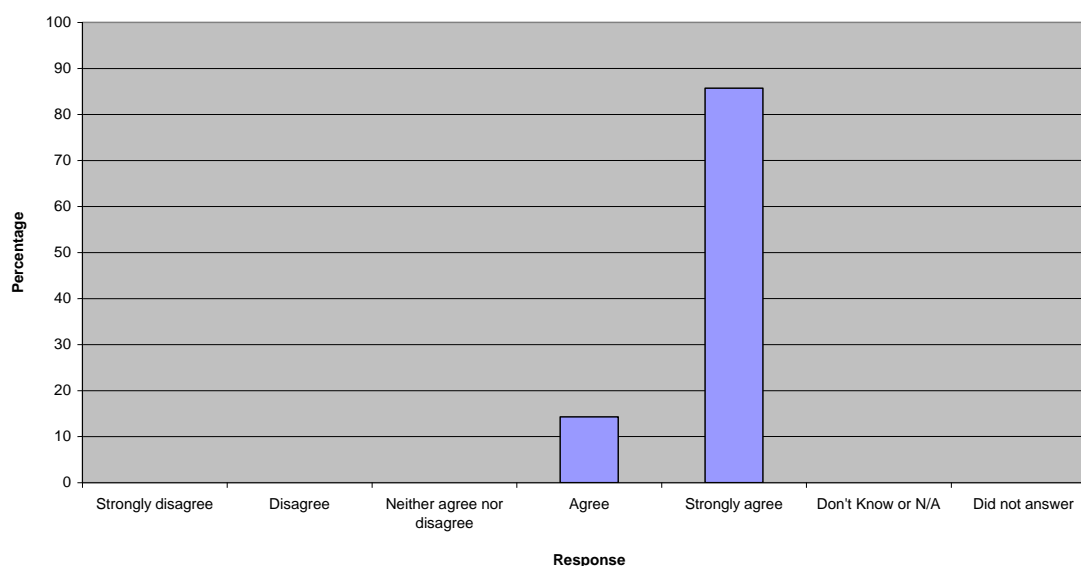
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 1 | 5 | 15 | 0 | 0 | 21 |
| 0% | 0% | 5% | 24% | 71% | 0% | 0% | 100% |

2.5 The trainer(s) had good knowledge of the subject they were teaching



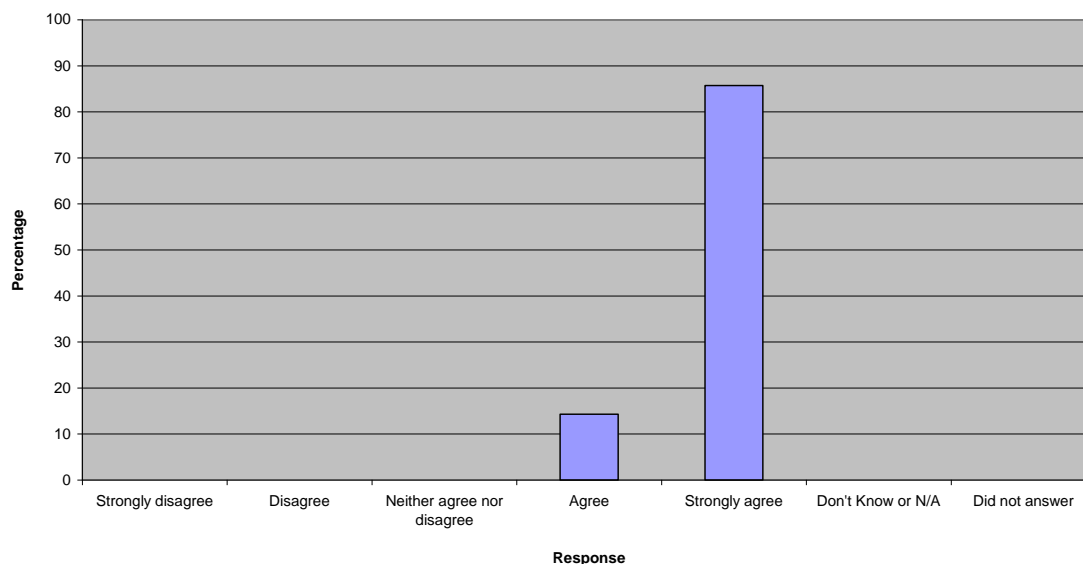
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 0 | 1 | 20 | 0 | 0 | 21 |
| 0% | 0% | 0% | 5% | 95% | 0% | 0% | 100% |

2.6 You were easily able to talk to your trainer(s) when required



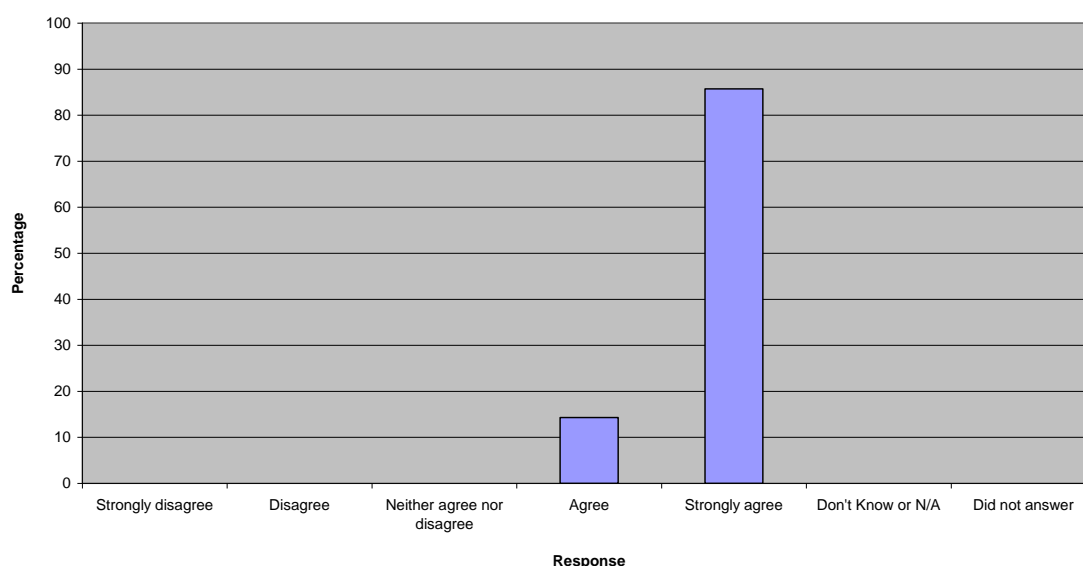
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 0 | 3 | 18 | 0 | 0 | 21 |
| 0% | 0% | 0% | 14% | 86% | 0% | 0% | 100% |

2.7 You feel you will be able to use what you have learned in the course in your work environment



| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 0 | 3 | 18 | 0 | 0 | 21 |
| 0% | 0% | 0% | 14% | 86% | 0% | 0% | 100% |

2.8 The teaching methods facilitated learning



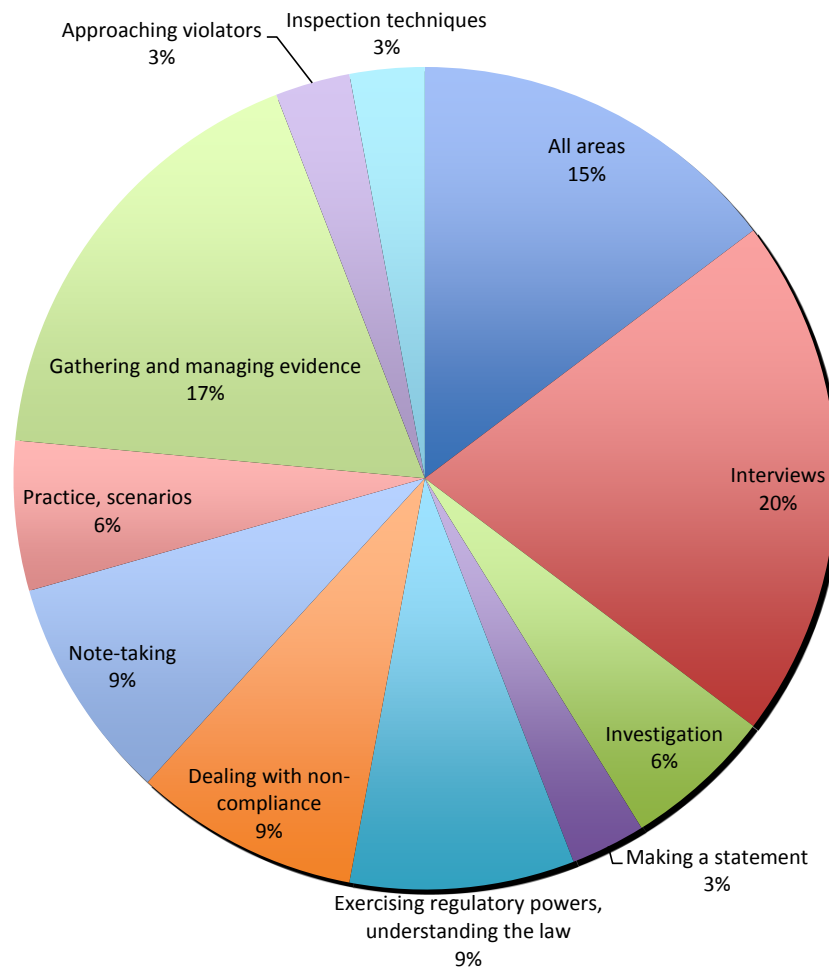
| Strongly disagree | Disagree | Neither agree nor disagree | Agree | Strongly agree | Don't know or N/A | Did not answer | Total |
|-------------------|----------|----------------------------|-------|----------------|-------------------|----------------|-------|
| 0 | 0 | 0 | 3 | 18 | 0 | 0 | 21 |
| 0% | 0% | 0% | 14% | 86% | 0% | 0% | 100% |

Part 3

Additional feedback requested from participants

At the Office of Environment and Emergency Management’s direction, questions 3 to 7 were added to ACFEC’s standard Participant Feedback Survey. Below are the questions and responses of participants:

3. What was the most useful part of the course for you?



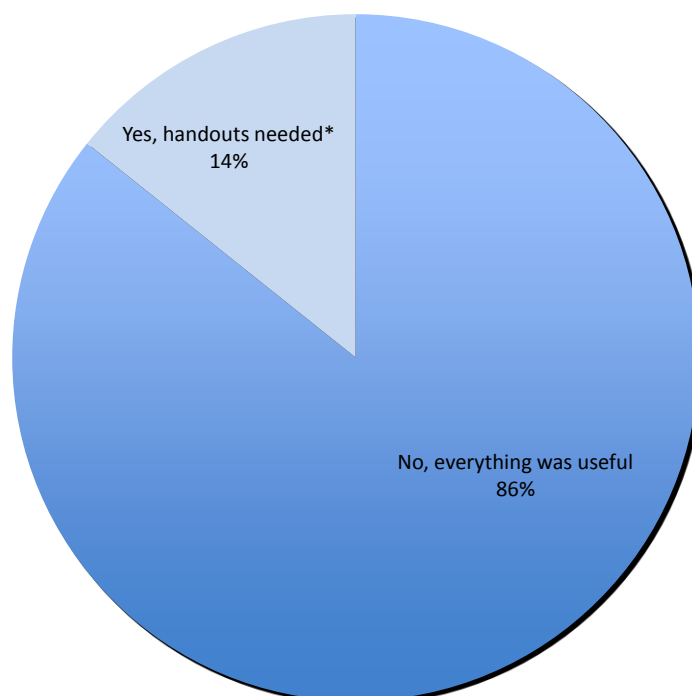
4. Were there aspects of compliance and enforcement not covered in the course that you think should have been covered?

Of the nine people that responded to this question, four people commented that nothing could have been added.

Additionally, the following areas were mentioned for inclusion and/or more time spent:

- More time on powers and authority and how it links to the required forms and materials
- More references from the case law
- Boarding vessels or boats
- More new techniques
- Specific training on court procedures
- More of a focus on the distinction between criminal and civil violations and how the role of the investigator changes between civil and criminal matters.

5. Were there aspects of the course that you did not find helpful or that you think could be improved?



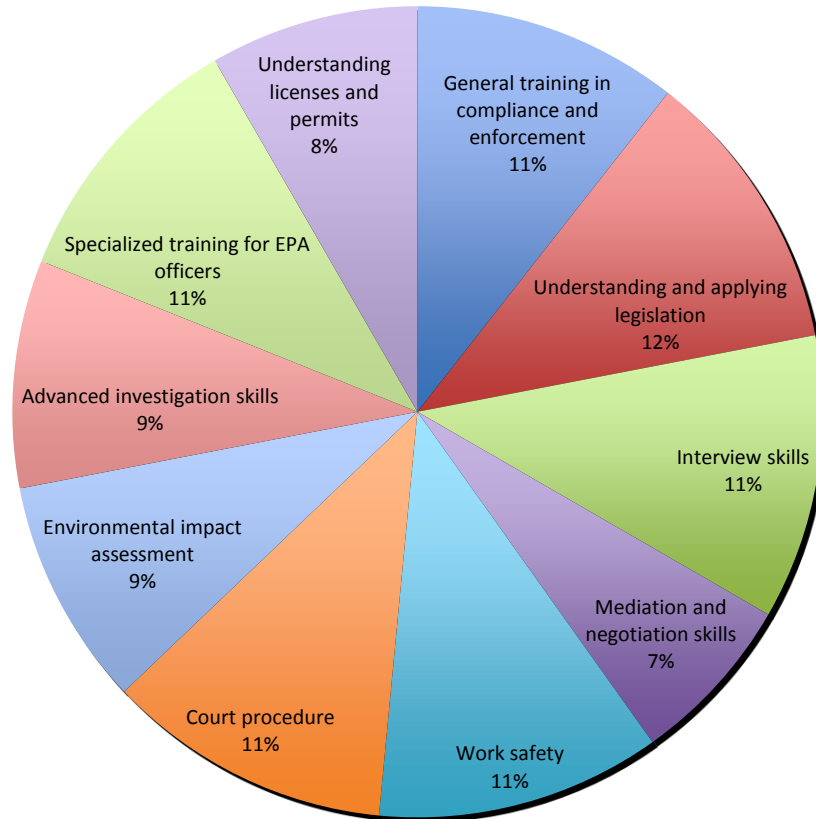
*The hard copy materials were lost by the airline carrier in transit to Pohnpei and notwithstanding attempts to have them located they did not arrive.

Six of the seven people who responded to this question, stated that everything in the course was helpful and there was nothing that could be improved. One person commented that there was room for improvement, stating the need for handouts to be used during the course.

6. For your organization, would more training in environmental compliance and enforcement be: (choose one only)

| Response | No of Responses | % |
|---|------------------------|----------|
| Very useful | 21 | 100 |
| Useful | 0 | 0 |
| Not useful – we have higher priorities for training and staff development | 0 | 0 |

7. If your organization would benefit from more compliance and enforcement training, please indicate which areas would be most useful (choose all that are relevant to you):



Seven participants chose all ten areas, the other 14 participants chose between one and 9 areas. No participants indicated zero areas.

Schedules

Schedule 1 Sample Statement of Completion Certificate



The certificate is a formal document with a white background and a green border. It features the ACFEC logo and the Government of the Federated States of Micronesia seal at the top. The main title is 'STATEMENT OF COMPLETION'. The text certifies that Christina Filmed attended a five-day training course on 'Environmental Compliance and Enforcement in the Federated States of Micronesia'. A list of six topics covered is provided. The certificate is dated 27 July 2012 and signed by Roger Hitch, Chief Executive Officer. Contact information for ACFEC is at the bottom.

 **ACFEC**
Australian Centre for
Environmental Compliance



STATEMENT OF COMPLETION

This certifies that

Christina Filmed

attended and successfully completed a five day training course on

*Environmental Compliance and Enforcement in
the Federated States of Micronesia*

covering:

1. Compliance actions
2. Investigation techniques
3. Exercising regulatory powers
4. Gathering and managing evidence
5. Records of interview
6. Safety in the field

Dated 27 July 2012



Roger Hitch
Chief Executive Officer

Australian Centre for Environmental Compliance Pty Ltd
Australian National Registration Code: 88151

Schedule 2 ACFEC Participant Feedback Survey



Australian Centre for Environmental Compliance Participant Feedback Survey

Instructions

The Australian Centre for Environmental Compliance conducts a range of training programs for government agencies. We are interested in continuously improving the delivery of programs and we would like your input. Please complete the questionnaire, reading each question carefully.

The questionnaire is anonymous.

Name of Course: Compliance and Enforcement Training, Level 1, July 2012

What type of organization do you work for (circle one): Fisheries / Environment / Other

Trainers: Roger Ilitch and Peter Courtney

Q1. Thinking in general about the course, how would you rate it overall?

(Circle only one answer).

- Poor..... 1
- Fair..... 2
- Good..... 3
- Very good..... 4
- Excellent..... 5

Q2. How strongly do you agree or disagree with the following statements about the course? (Circle only one answer for each question).

| | Strongly Disagree | Disagree | Neither Agree or Disagree | Agree | Strongly Agree |
|---|-------------------|----------|---------------------------|-------|----------------|
| 1. You were given a clear idea of what the course entailed at the beginning. | 1 | 2 | 3 | 4 | 5 |
| 2. The topics covered in the course were interesting. | 1 | 2 | 3 | 4 | 5 |
| 3. The topics covered in the course were sufficiently challenging for you. | 1 | 2 | 3 | 4 | 5 |
| 4. The way in which you developed skills through the course matches the skill you are required to develop on the job. | 1 | 2 | 3 | 4 | 5 |
| 5. The trainers had good knowledge of the subject they were teaching. | 1 | 2 | 3 | 4 | 5 |
| 6. You were easily able to talk to your trainers when required and received helpful feedback. | 1 | 2 | 3 | 4 | 5 |
| 7. You feel you will be able to use what you have learned in the course in your work environment. | 1 | 2 | 3 | 4 | 5 |
| 8. The teaching methods facilitated learning. | 1 | 2 | 3 | 4 | 5 |

Q3. What was the most useful part of the course for you?

.....

.....

.....

.....

Q4. Were there aspects of compliance and enforcement not covered in the course that you think should have been covered?

.....

.....

.....

Q5. Were there aspects of the course that you did not find helpful or that you think could be improved?

.....
.....
.....
.....

Q6. For your organization, would more training in compliance and enforcement be:
(choose one only)

- 1. **Very useful**
- 2. **Useful**
- 3. **Not useful - we have higher priorities for training and development, such as:**

.....
.....
.....

Q7. If your organization would benefit from more compliance and enforcement training, please indicate which areas would be most useful:
(choose all that are relevant to you)

General training in compliance and enforcement

Understanding and applying legislation

Interview skills

Mediation and negotiation skills

Work safety

Court procedure

Environmental impact assessment

Advanced investigation skills

Specialized training for EPA officers

Understanding licenses and permits

Please provide any other comments you have about the course:

.....
.....
.....
.....

Schedule 3 Comments from ACFEC Feedback Forms

Environmental Compliance and Enforcement Course - FSM July 2012 ACFEC Questionnaire: Other Comments – Verbatim (10 only)

1. The course was very useful providing clear guidance on procedures and materials that can be adopted and/or improved. The instructors were very effective and I appreciated their level of assistance in providing feedback to all participants.
2. I am very happy that I am part of this training as it is very helpful in my own job responsibilities and I believe that what I learn from this training will be very helpful in doing my job better than before.
3. I really like this course, it's my first time to learn these procedures in investigation techniques.
4. I recommend that the training be extended within all states to have more agencies to be able to participate.
5. I want to thank Roger, Peter, Justin and all the people who made this training possible, Thank You.
6. I thank the trainers for their assistance. It strengthens our knowledge for how we work.
7. The course is very useful and helpful and I can tell that I learn many things from it. It really helps me to understand what I am doing in my work back home.
8. I believe that what we learn in this training is very important tool for our job but if we don't use the skills we learn from this training then it will be worth nothing.
9. I wish we can have this training as a certified inspector every two years to make sure we are capable of doing this important job.
10. I learned a lot from this training. I realized that some of the important procedures that I did not follow could cause the case I work on to be discarded by the AG or the Judge. This training will really enhance my enforcement duty.

