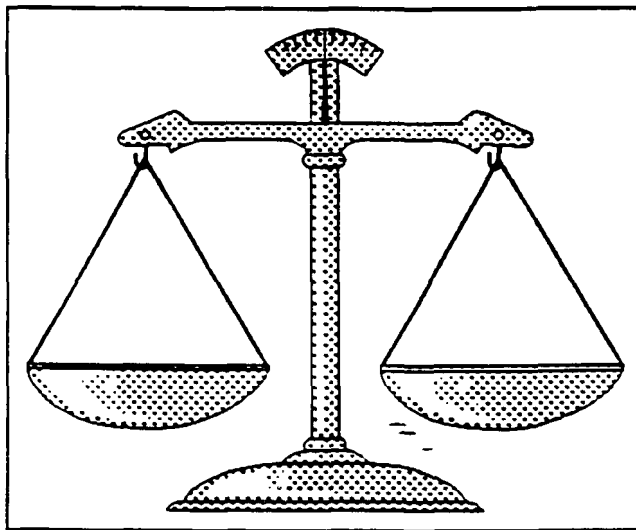


U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION VII MULTI-MEDIA
COMPLIANCE & ENFORCEMENT STRATEGY



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PURPOSE

Although the multi-media concept has been with the Environmental Protection Agency since the Agency's inception, the term emerged in the mid-1980's as a description of a comprehensive approach to compliance and enforcement activities covering all programs under which a facility is regulated. One of the major planning themes of the Agency is to improve multi-media enforcement. Toward this end, Region VII has developed a Multi-Media Compliance and Enforcement Strategy. The Region believes that implementation of this Strategy will promote an increased awareness of cross-media issues within both the Agency and the regulated community, resulting in enhanced protection of human health and the environment.

INTRODUCTION

The Region VII Multi-Media Enforcement Committee was formed in January 1992 by bringing together Section Chiefs representing the compliance and enforcement portions of the various regional media programs and requesting that they establish and implement a multi-media compliance and enforcement program in the Region.

In March 1992 the Committee established the following general objectives for itself:

- (1) Develop, implement and coordinate regional multi-media inspection activities.
- (2) Develop, implement and coordinate regional targeting of multi-media enforcement activities to address specific geographic areas, pollutants of concern, industries, companies or facilities with poor compliance histories across media programs.
- (3) Initiate and coordinate settlement of multi-media enforcement actions between regional program areas.
- (4) Develop and oversee multi-media enforcement actions and settlements resulting from multi-media inspection or compliance activities.

Since establishing these objectives the Committee has been attempting to develop and implement a regional multi-media compliance and enforcement program within the framework of these objectives.

The purpose of this strategy is to formalize and specify the present goals, objectives, responsibilities and activities of the Regional Multi-Media Enforcement Committee.

ADMINISTRATIVE FUNCTIONS

The regional Multi-Media Enforcement Committee will be made up of Section Chiefs representing the compliance/enforcement sections of the following media programs.

RCRA
Air
NPDES
Drinking Water
Wetlands
TSCA
EPCRA
FIFRA
Superfund
Asbestos

Representatives from Regional Counsel, Environmental Services Division, the Criminal Investigation Division, Congressional and Intergovernmental Liaison, and the Deputy Regional Administrator will also participate on the Committee. Coordination with the Public Affairs Office will also occur as significant issues arise.

The Committee will meet at least once per month. A Committee member will be selected to act as Chairperson of the Committee for a period not to exceed six (6) months. The Chairperson will be responsible for reserving a meeting room for each Committee meeting, developing and distributing an agenda and acting as manager for each meeting. A Vice-Chairperson will also be selected for the same 6 month period. The Vice-Chairperson will become Chairperson for the Committee at the end of the 6 month period. At that time another Vice-Chairperson will be selected. A Committee member will also be selected to be Note-taker for each meeting. The Note-taker will develop and distribute notes from each meeting to each Committee member within 2 weeks of the end of the meeting.

The Committee can decide to develop and appoint members to participate on Subcommittees to the Committee. These Subcommittees will work on specific individual projects selected by the Committee.

MULTI-MEDIA COMPLIANCE INSPECTIONS

In order to achieve the desired benefits of a multi-media approach to enforcement, a cross-program approach can be incorporated into all stages of the enforcement process, including inspections. The Region has defined the following strategy for conducting multi-media investigations.

Definition of Multi-Media Inspections

Several types of multi-media investigations have been defined both regionally and nationally. These are commonly referred to as level B, C, and D inspections (level A being a traditional single program inspection). Level B inspections involve a detailed compliance evaluation for a single primary program with the addition of a screening evaluation for one or more secondary programs. Level C and D inspections involve a detailed compliance evaluation for two or more primary programs, and may include secondary screening.

Objectives of Multi-Media Inspections

The objectives of multi-media inspections are to:

Obtain a more holistic picture of a facility's compliance status. This gives the Agency the ability to more effectively evaluate a facility's environmental management practices and the impacts of these practices.

Support a cross-program enforcement action; one that more fully addresses all relevant issues, guards against duplication of effort, and eliminates the possibility of individual programs working at cross purposes when addressing compliance issues at the same facility.

Form a strong base for negotiations by providing more timely and complete data.

Identify potential supplemental environmental projects for use during settlement.

Level B multi-media inspections work toward this end by allowing field staff to identify the more obvious signs of non-compliance with other programs administered by the Agency during the routine execution of a primary inspection. Level C and D inspections are used as an investigatory tool where the Agency has determined in advance of the inspection that there may be significant enforcement issues at a facility in more than one program area.

Selection of Candidates for Multi-Media Inspections

The Region has implemented a policy of performing level B screening for at least one secondary program during a percentage of all enforcement inspections. The decision to select a secondary program for screening will be based on program input and inspector discretion. Routine screening procedures and checklists have been developed, though based on site specific information, an inspector may use modified procedures to achieve the proposed objectives.

Level C and D multi-media inspection candidates will be selected based on input from all programs. The selection will be based on the probability of detecting noncompliance through inspection activity, and on the relative risk of the facility's operations to human health and the environment. On a practical level, this will be achieved by considering the following: compliance history information, federal and state program candidate identification, risk targeting system information, and consistency with national or regional enforcement initiatives. The regional multi-media subcommittee will be responsible for identifying sources of the above information, and for presenting lists of potential candidates to the full multi-media enforcement committee for approval.

Coordination of Level C and D Multi-Media Inspections

Due to the cross-program nature and complexity of level C and D inspections, effective coordination is critical to effective implementation of the inspection. During the candidate selection process, each program will have identified the relative risk posed by the candidate facility with respect to their program, i.e. the relative priority of the candidate within the framework of the program's current inspection targeting process and the relative probability of detecting noncompliance with the applicable regulations. Beyond the preliminary agreement to select the candidate for a multi-media inspection, a decision must be made as to the program specific objectives, the level of each program's participation, the resources required to meet the objectives, and the level of state participation and coordination.

One of the key coordination issues that must be addressed for multi-media inspections is state coordination. The states typically will have been consulted by program representatives during the candidate selection phase. Once final selection has been made, a preliminary agreement will be reached with state program personnel regarding the conduct of and responsibility for any potential enforcement follow-up. Each program will be responsible for coordinating with their state counterparts. However, once an inspection team leader has been selected, he/she will be responsible for confirming that all appropriate state

coordination issues have been resolved prior to conducting the inspection.

Once a candidate has been selected, and preliminary agreements have been reached with the state programs, an inspection team will be identified. Members of the team will be selected according to program participation, supervisory/management approval, and special services required. The inspection team will typically be comprised of ENSV, ARTX, and state inspectors. A team leader will be assigned from among the team members either by a consensus of the members or by management assignment. The team leader will be responsible for seeing that all cross-program coordination issues are addressed, all program specific objectives are identified and addressed, and that all team members understand and agree to their individual responsibilities. The team will decide whether a coordinated or consolidated inspection will most effectively and efficiently meet the activity objectives.

After the inspection, the relevant state programs will be contacted to develop a final agreement for enforcement responsibilities based on the inspection results. The inspection team will provide a comprehensive report of the inspection findings to the relevant programs and counsel, and will provide enforcement support as necessary.

MULTI-MEDIA ENFORCEMENT

Once violations have been documented, the next phase in the multi-media strategy is coordinated enforcement actions. This coordination may or may not result in a consolidated enforcement action by EPA, but the process opens lines of communication not only within EPA but also between EPA and the States. Attachment 1 identifies the coordinated process in a flow chart.

The first step in enforcement coordination begins within the individual media programs. Each program in working with their state counterparts exchange information on significant non-compliers (SNC). The SNCs could have been found by either state or EPA investigation and either agency may have the initial enforcement lead depending on the specific-media enforcement agreements. All the programs maintain information for the active SNCs. Therefore, the next step in enforcement coordination is a compiled enforcement report which identifies all the SNCs with pertinent information.

Every month, a designated member of the Multi-Media Enforcement Committee receives from each program a SNC report. The individual SNC reports identify: Nature of Violation, Media/Statute Violated, EPA Contact Person, Date Violation was Found, Date of Initial Enforcement Action, Date of Final Action, and Current Status. The current status usually indicates who, EPA or the state, has the lead in the enforcement action. The person receiving all the SNC reports generates a listing of all the SNCs in alphabetical order. The purpose of this SNC listing is to identify facilities in violation of more than one statute, identify violation trends, or identify candidates for enforcement initiatives. Monthly, every member of the Multi-Media Enforcement Committee receives the compiled-regional SNC listing. Upon receipt, each program reviews to identify SNCs in violation of other statutes. Communication by programs are made in the following situations:

- 1) to another program who has a SNC on the list with the same name and/or location as the program making the call;
- 2) to another program who has a SNC on the list and the calling program has previous compliance issues with that SNC.

If SNCs are state leads, the individual programs will inform their state counterparts of the multi-media violations and the state may choose to coordinate the multi-media actions among their own programs. If the case is a potential EPA case which could be coordinated or consolidated as a multi-media case then the case is discussed at the Multi-Media Enforcement Committee meeting and placed on a multi-media case list. Cases on this list which are part of a national or regional initiative will be

identified as such. For multi-media cases on the list, the Committee identifies case teams consisting of the program and CNSL representatives who will be responsible to bring the specific cases to closure. The first action by the teams are to confirm the multi-media case decisions and choose team leaders. If teams determines that multi-media cases whether consolidated or coordinated are not appropriate for various reasons including timeliness, the teams provide their recommendation to the Committee for final resolution. The Committee will consider timing and environmental impacts from the various media when making a final decision on multi-media cases.

Once EPA multi-media cases have been confirmed, the team selects and initiates the best enforcement mechanism. Examples of these mechanisms are a consolidated civil judicial referral, consolidated administrative complaint, individual administrative complaints with coordinated settlements, or criminal referral.

Coordinated or even consolidated multi-media cases between the state and EPA is another option. For these type of cases, EPA and the state would need to establish a multi-media case team and follow similar steps that an internal EPA multi-media case team would complete. Final resolution of multi-media cases will consider including supplemental environmental projects, deterrent penalties, and injunctive relief.

Throughout multi-media case resolution period, the Multi-Media Enforcement Committee will receive monthly updates on the cases' status from the committee members who have the team leaders in their programs. In addition, all state counterparts will be kept apprised of EPA's activities through the normal respective programs communication, e.g. Air has monthly conference calls. All multi-media cases will be tracked by CNSL.

MULTI-MEDIA SOURCES OF INFORMATION FOR COMPLIANCE AND ENFORCEMENT

For both multi-media compliance and enforcement activity there are many different sources of information to be utilized by EPA and state staff. The information not only provides data in addition to existing program specific information, but is also useful for verifying existing information. Listed below are the different sources and how the information could be used.

Enforcement Monday Report - This report is the primary mechanism for identifying multi-media actions within the Region. All significant actions as well as inspection information are listed on the report. Copies of the report are circulated to the Multi-Media Enforcement Committee. Affected programs discuss companies with multiple actions prior to the monthly committee meeting. If it is determined that a potential multi-media action exists, a recommendation for multi-media action is made to the committee.

Toxic Release Inventory - Data from the toxic release inventory (TRI) is used for targeting purposes by cross checking TRI information with data which has been reported as required by permits. The data is also used to determine pollution prevention opportunities by reducing chemical use.

IDEA - Information contained in this system is used to target inspections based on compliance/enforcement history. The information is also used for identification of Supplemental Environmental Projects.

Screening Inspections (Level B) - Information from the screening inspections is forwarded to the appropriate program for follow-up inspections if appropriate.

Citizen Complaints - Information from citizen complaints is used to target for-cause inspections.

State Agencies - Information from state databases and records is used in targeting inspections and cross checking data reported to EPA. Information is also obtained from state inspection reports as well as screening checklists. State agencies also refer complaints to EPA for follow-up. A list of state agencies which might provide information is identified in attachment 2.

Other Federal Agencies - Data bases and records maintained by federal agencies is useful in targeting inspections and cross checking information which has been reported to EPA. Information collected during inspections is also useful for targeting inspections or settling enforcement actions. Referral of complaints and information is also used for targeting inspections. A list of federal agencies which might be sources of information is identified in attachment 2.

Strategic Planning - On-going strategic planning activities will be considered during all enforcement activities.

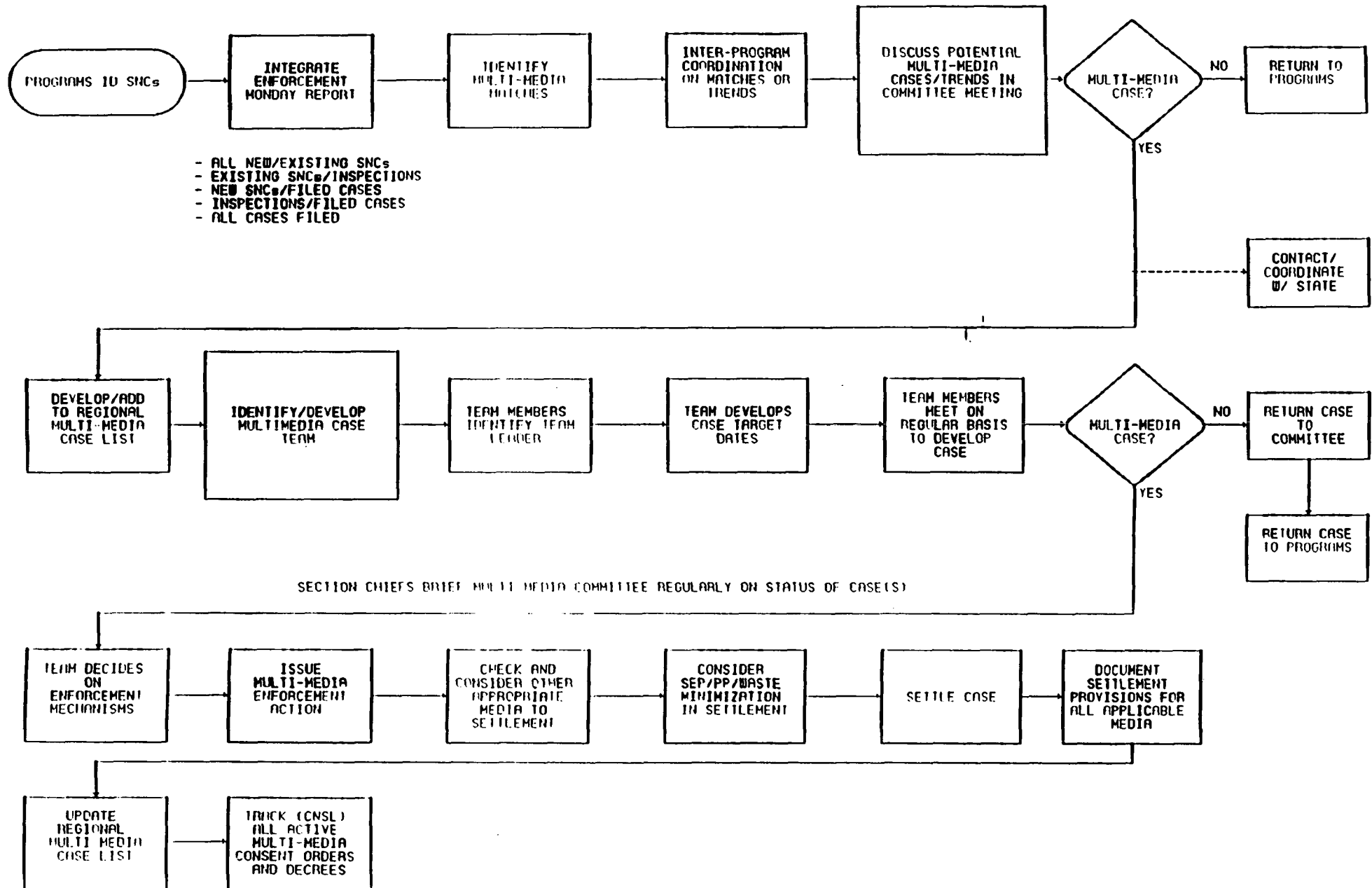
Comparison of Inspection Candidates - Inspection candidates are compared and coordinated between programs to prevent duplication of efforts. This allows for "joint" (occurring at same time) inspections at facilities and also promotes information sharing between inspectors.

Dunn and Bradstreet - This database contains multi-facility, and financial corporate officers. This data can be used to determine a company's ability to pay and as a means to determine a non-compliance history for an individual who is associated with more than one company.

Other Data Sources - Other sources of information are telephone books, manufacturing directories and trade journals. These publications provide possible candidates which can be added to neutral inspection schemes.

Attachment 1

MULTI-MEDIA ENFORCEMENT PROCESS FLOW CHART



Attachment 2

Other State and Federal Agencies

State Agencies

Department of Transportation
Department of Conservation
Highway Patrol
Sheriff's Department
Local Health Department
Disaster Preparedness
Department of Agriculture
State OSHA
Environmental Departments
State Universities
Educational Agencies

Other Federal Agencies

Department of Transportation
Defense/Fraud
FBI
OSHA
Corps of Engineers
Department of Agriculture
Fish and Wildlife
HUD
GAO
Customs
GSA
FAA
Inspector General