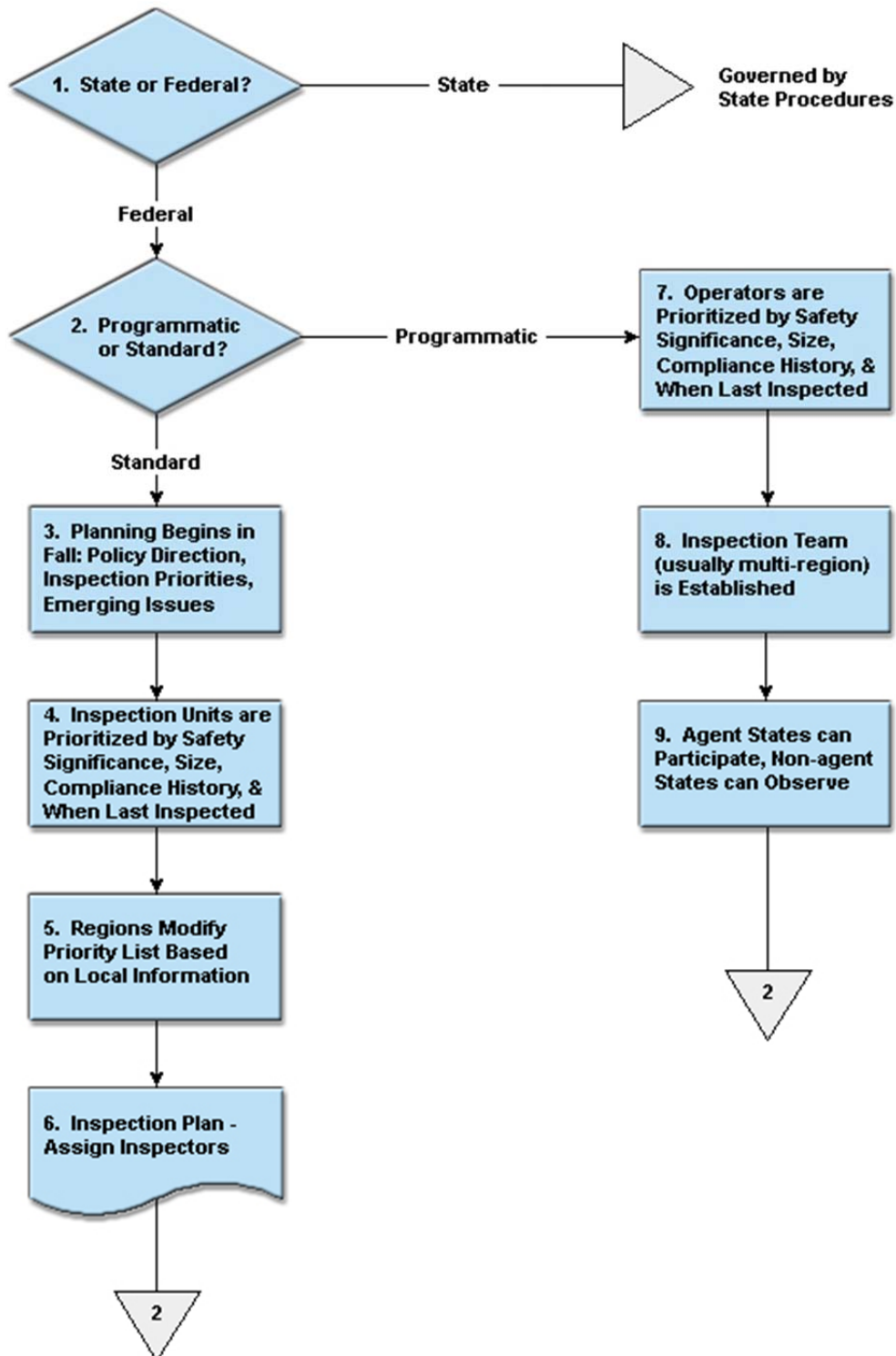


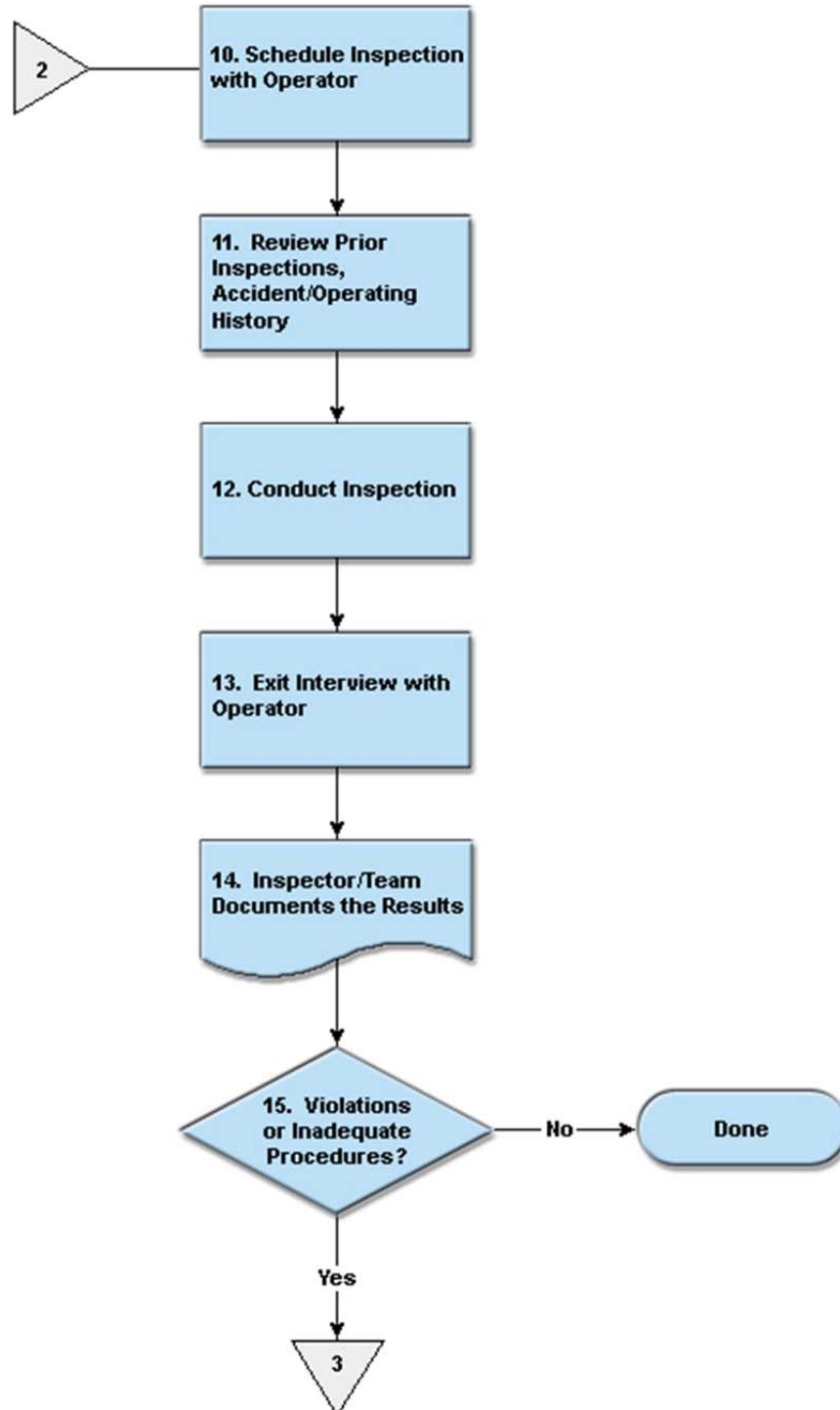
Stakeholder Communications

PHMSA Pipeline Safety Program

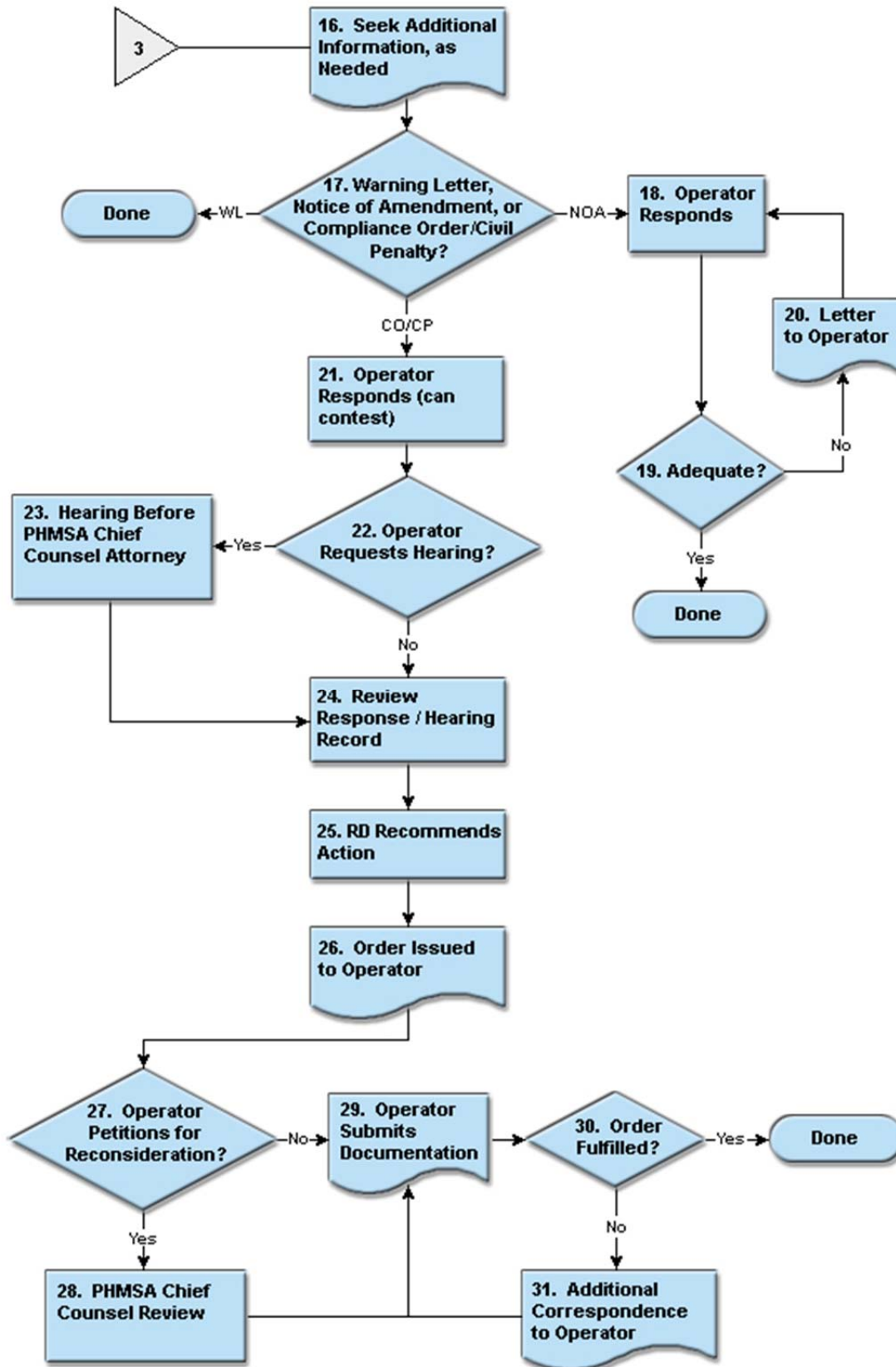
Inspection and Enforcement Flowchart 1



Inspection and Enforcement Flowchart 2



Inspection and Enforcement Flowchart 3



1. State or Federal

Many States exercise regulatory authority over pipelines within their borders. States must have a regulatory program, certified by the federal Department of Transportation's Office of Pipeline Safety (OPS), which establishes requirements that are at least as stringent as federal requirements. States can be certified to regulate gas pipelines, hazardous liquid pipelines, or both. Once certified, States are responsible for inspecting intrastate pipelines (i.e., pipelines that lie completely within their borders). OPS also enters into agreements with some States under which they act as 'agents' for OPS and assume responsibility for inspecting interstate lines that pass through their states as well. The current status of state certifications and agent agreements is shown on this [map](http://primis.phmsa.dot.gov/comm/Coop.htm) (<http://primis.phmsa.dot.gov/comm/Coop.htm>). The first step in inspection planning is to determine whether an inspection will be conducted by federal or state inspectors. State inspections are conducted according to specific procedures in each State. Federal inspections follow the processes outlined here.

2. Programmatic or Standard?

Regulations, and the inspections used to monitor compliance, are of two basic types. Programmatic regulations require operators to develop and implement management programs to assure certain aspects of safety. Examples are pipeline integrity and operator qualification. Other regulations detail specific requirements, such as how pipelines must be marked or the periodicity at which surveys and inspections must be performed. These are 'standard' activities for the pipeline operator and their oversight is a routine function of OPS, conducted via standard inspections.

3. Planning Begins In Fall: Policy Direction, Inspection Priorities, Emerging Issues

Planning for inspections to assure compliance with standard requirements begins in the fall. Policy direction is provided to the five OPS Regional Offices from Headquarters. The Regional Directors, in consultation with Headquarters, establish priorities based on issues that have arisen during the year, problems which have resulted in pipeline failures, etc. New, or emerging, technical issues that could pose safety problems are identified for consideration during inspections.

4. Inspection Units are Prioritized by Safety Significance, Size, Compliance History, & When Last Inspected

Pipeline operators are divided into 'inspection units'. For operators with small amounts of pipeline mileage, the entire company may be considered an inspection unit. Larger operators are divided based on operating areas (e.g., cities or metropolitan areas), company organization (e.g., all elements reporting to a single vice president), or similar factors. Interstate pipeline inspection units include approximately 200 to 300 miles of pipeline, an amount that can be reviewed by a single inspector in an inspection lasting about 3 days. Pipeline units are ranked by priority in the planning process based on recent incidents and operating history, compliance history, size and complexity of their operations, and the time since the unit was last inspected. The ranking is done initially using information collected by OPS headquarters.

5. Regions Modify Priority List Based on Local Information

The Regional Directors may modify the priority list for inspection units in their Regions based on additional local information. This may include recent organizational changes or issues the Region may have noticed that have not yet resulted in incidents or violations but which could result in safety issues.

6. Inspection Plan – Assign Inspectors

Based on the final priority listing, each OPS Regional Director establishes an inspection plan for the upcoming year. Individual inspectors from the Regions are assigned to specific inspection units. Each inspector, on average, spends slightly less than half of his/her time performing onsite standard inspections. The remainder is devoted to inspection paperwork, developing enforcement actions, programmatic inspections, training, and response to incidents and emerging concerns.

7. Operators are Prioritized by Safety Significance, Size, Compliance History, & When Last Inspected

Planning for inspection of programmatic requirements proceeds a little differently. In many cases, the same program applies to all of a pipeline operator's pipelines or to major pipeline systems. The amount of pipeline involved can be considerably larger than an inspection unit, and may be present in more than one OPS Region. (The largest operators have pipeline in all 5 OPS Regions). Programmatic inspections are performed when new programmatic requirements are being implemented. The inspections are repeated as needed, based on the complexity of the programs and the experience with operator compliance. Operators are ranked for each program to be inspected according to safety significance (e.g., could inadequacies in the program to be inspected result in significant safety problems), their size, their compliance history (overall and in the program to be inspected), and when their program was last inspected.

8. Inspection Team (usually multi-region) is Established

An inspection team is assigned to perform most programmatic inspections. (Programmatic inspections of smaller operators may be conducted by a single inspector). Usually, the team includes inspectors from more than one OPS Region. The team usually, but not always, includes inspectors from each Region in which the operator has pipeline. One of the senior inspectors is designated team leader, and is responsible for scheduling and managing the inspection.

9. Agent States can Participate, Non-Agent States can Observe

States that act as interstate agents are invited to participate as part of inspection teams for programs covering pipeline in their states, although the inspections themselves are managed by OPS. States that have certified programs, but not agent agreements, are invited to observe the inspections.

10. Schedule Inspection with Operator

First, the inspector or team leader contacts the operator to schedule the inspection. This helps assure that the personnel and information that are needed to conduct the inspection will be available. For example, an inspection of cathodic protection could require the presence of the responsible supervisor, who may be at another of the operator's offices if the inspection were unannounced.

11. Review Prior Inspections, Accident/Operating History

Prior to the arriving for the inspection, the inspectors review information about the operator. This includes prior inspections, including any areas that were found lacking, and the accident/operating history of the operator. This review helps identify areas that may need particular attention during the inspection.

12. Conduct Inspection

The inspection is conducted at the operator's facilities. Standard inspections include a review of the operator's procedures and records and a facility inspection. During the latter, the inspector may evaluate, for example, pump/compressor stations, emergency shutdown devices, cathodic protection (corrosion prevention) devices, or signs marking the pipeline right-of-way. A standard inspection typically lasts about 3 days. Programmatic inspections often take longer. They are conducted using detailed written protocols that guide the inspectors through a thorough review of the operator's management systems to assure that they adequately implement the requirements in the regulations. Integrity management inspections of larger operators usually last two weeks.

13. Exit Interview with Operator

At the end of every inspection, the inspector/team conducts an exit interview with the operator. During this meeting, the inspectors inform the operator of strengths and weaknesses that they have identified. The inspectors point out areas where the operator's activities appear not to comply with applicable regulations. The inspectors do not impose enforcement actions (e.g., civil penalties or orders to take certain actions) at this point, but do inform the operator of deficiencies that may lead to such actions.

14. Inspector/Team Documents the Results

The inspector/team documents the inspection upon their return to OPS offices. Summary memoranda document the inspection findings. Inspection results are reviewed with management. Areas in which the operator's activities may violate regulations are carefully reviewed, including full descriptions of the potential violation.

15. Violations or Inadequate Procedures?

If no violations are identified, the inspection is complete. The summary documentation is filed, to be used to prepare for the next inspection and to document the current status of the operator's activities. If violations are noted, the process of determining (and imposing) the appropriate enforcement action begins.

16. Seek Additional Information, as Needed

As a first step, inspectors determine if additional information is needed to understand fully the nature of the violation. This may include letters to the operator seeking additional information (e.g., copies of procedures). The additional information may reveal that the operator has not, in fact, violated requirements. If so, the process ends. If not, OPS considers the fully described and documented violation to determine the appropriate level of enforcement.

17. Warning Letter, Notice of Amendment, or Compliance Order/Civil Penalty?

The type of enforcement action taken depends on the safety and regulatory significance of the violation. Minor problems occurring for the first time may be treated with a Warning Letter. Operators receiving warning letters are expected to make changes to come into compliance. Their actions are reviewed during future inspections, and no further enforcement action is taken unless future violations are noted. Violations involving procedural deficiencies are addressed by Notice of Amendment, requiring the operator to amend its procedures. More significant violations may require a compliance order, specifying actions the operator must take to come into compliance, or a civil penalty, imposing a fine. Fines can be as much as \$100,000 for each day a violation existed, up to a maximum of \$1,000,000. If these more significant actions are appropriate, OPS will send the operator a Notice of the proposed action (i.e., compliance order or civil penalty).

18. Operator Responds

An operator who receives a Notice of Amendment must make the procedural changes directed in that amendment and respond to the Notice describing the action that it has taken. The response usually includes a copy of the revised procedures.

19. Adequate?

The inspectors review the operator's response to determine if the changes made resolve the noted violation. If the changes are adequate, no further action is taken. The area will be reviewed again on future inspections.

20. Letter to Operator

If the changes made by the operator are not adequate to resolve the violation, OPS sends another letter to the operator identifying the deficiencies and requiring additional action. This process continues until the operator's procedures are brought into compliance.

21. Operator Responds (can contest)

An operator who receives a Notice of Compliance Order/Civil Penalty has an opportunity to respond to the Notice. The operator can provide additional information, if any is available, to try to convince OPS to modify, or moderate, its proposed action. The operator can also contest the violation, providing any information to demonstrate that its actions are in compliance with requirements.

22. Operator Requests Hearing?

The operator can also request a hearing, at which the operator and the inspectors would present evidence regarding the apparent violation and the proposed enforcement action.

23. Hearing Before PHMSA Chief Counsel Attorney

A hearing, if requested, is held before an attorney from DOT's Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Chief Counsel. Hearings are informal. They do not follow strict rules of evidence, and parties do not cross-examine each other. The operator and OPS are permitted to present evidence supporting their case (i.e., that the violation did/did not occur) and each is allowed to respond to information the other may present. Hearings are usually completed in one day. The presiding attorney drafts a Final Order for review by OPS management and the Region.

24. Review Response/Hearing Record

OPS management reviews the operator's response to the Notice of Proposed Compliance Order/Civil Penalty and the draft Final Order/hearing record (if any). This review is intended to assure a complete understanding of the nature and severity of the violation.

25. RD Recommends Action

The cognizant Regional Director recommends a final course of action based on the conclusions of his/her review of the related documentation. The recommendations will include actions that should be included in a Final Order and/or the size of a civil penalty to be imposed.

26. Order Issued to Operator

The Regional Director's recommendations are considered by PHMSA's Office of Chief Counsel. Changes are made, if needed, and a Final Order is issued to the operator imposing corrective actions and/or civil penalty.

27. Operator Petitions for Reconsideration?

Upon receipt of the Final Order, the operator can petition for reconsideration.

28. PHMSA Chief Counsel Review

If reconsideration is requested, the record is reviewed by PHMSA's Chief Counsel, elevating consideration to a higher management level than the attorney who presided at the hearing (if any). The operator is informed of the results of this review and PHMSA's final decision in the matter.

29. Operator Submits Documentation

The operator must also submit information in response to the final order describing actions that it is taking to resolve the violation. The operator must also pay any civil penalty.

30. Order Fulfilled?

The inspectors, and OPS management, review the information submitted by the operator to determine if the provisions of the final order have been fulfilled and the violation has been corrected.

31. Additional Correspondence to Operator

If deficiencies are found, additional correspondence will be sent to the operator identifying them and requiring additional actions. In extreme cases, where operators refuse to take required actions or to pay civil penalties, the case may be referred to the Department of Justice for further legal action. Once OPS finds that the operator has fulfilled the requirements of the final order, the case is closed.

The documentation related to any enforcement action is reviewed as part of preparation for future inspections (step 11). Inspectors then review the area, as necessary, during the inspection to verify that committed actions have been taken and that the violation has been resolved.