

CHAPTER 15

REINSPECTION PROGRAM

SECTION 15.1 - PURPOSE

OHMS conducts reinspection of entities previously assessed a civil penalty via Ticket for Noncompliance or Civil Penalty Case to determine the current level of compliance and to measure its own effectiveness. A reinspection is conducted in the same manner as any other inspection, without prejudice or special emphasis in any area. All functions subject to the requirements of 49 CFR are evaluated with respect to the regulations in effect at the time of the inspection.

The results of our reinspections measure the effectiveness of our efforts in gaining compliance with the regulations. The statistics provided by the reinspection program have been recognized by the Department as an intermediate outcome measure for reporting under the Government Performance and Results Act (GPRA).

Each year the PHMSA performance plan includes a percentage goal of compliance reinspection leading to enforcement actions (cases and tickets), with the aim to lower the percentage. For this reason, among others, it is imperative that each of us give emphasis to obtaining corrective action when violations to the HMR are discovered.

The GPRA measure applies only to reinspections of companies with prior civil penalty actions. Although we are also reinspecting companies who have been issued tickets, those statistics are not included in the GPRA measure.

SECTION 15.2 - SCOPE

An organization with a prior civil penalty enforcement action becomes eligible for reinspection no earlier than one year following the issuance by the PHMSA Chief Counsel of an uncontested Order. An organization with a prior ticket action becomes eligible for reinspection no earlier than six months following the close-out of the ticket.

Reinspections will not be conducted on companies with appeals pending or with open enforcement actions, except as directed by the Director of Field Operations or the National Field Leadership Team.

An exception to the open case prohibition is companies who are paying penalties on payments plans; they are eligible to be reinspected provided they meet all of the remaining requirements. An enforcement action pending against one facility of a corporation would not preclude conducting an inspection or reinspection of one of the corporation's other facilities.

SECTION 15.3 - PROCEDURES

Each supervisor will determine the percentage of reinspection to be conducted in a given quarter based on enforcement priorities in the region and guidance from the Director of Field Operations.

Wherever possible, when preparing to conduct reinspections, investigators should familiarize themselves with the previous enforcement action in order to verify compliance. During the entrance interview, inform the company representative that the inspection is being conducted under OHMS' reinspection program.

The inspection does not differ from a routine compliance inspection. The inspection is recorded in the HMIS as a reinspection on the "Attributes" page and the previous case or ticket number is recorded. Due to the nature of the reinspection program, it is essential to thoroughly document all hazardous material functions observed during the inspection.