Importance of Enforcement Actions to Achieve SNC NCI Goals

EPA-State NPDES SNC NCI Symposium
EPA Region 6, Dallas, Texas
January 22, 2020
Overview

I. Introduction

II. State-EPA Panel Discussion: Use of Enforcement Actions to Resolve and/or Deter SNC Violations

III. Overview of OECA’s Approach for Prioritizing SNC Follow-up Actions
I. Introduction

• SNC violations are defined in EPA guidance as a subset of egregious NPDES violations that warrant priority attention by the NPDES authority and a “timely and appropriate” response.

• Enforcement actions play a critical role in resolving continuing SNC violations and in deterring future SNC violations.

• Session objective is to discuss different approaches for using enforcement actions to resolve SNC violations and achieve the goals of the SNC NCI.
II. State-EPA Panel Discussion: Use of Enforcement Actions to Resolve and/or Deter SNC Violations

Panel Discussion:
• Richard Paull, NJ
• Meredith Streeter, NY
• Denny Dart, EPA Region 1
• Michael Boeglin, EPA Region 8

Full Group Discussion:
• Other examples of successful uses of enforcement actions to resolve SNC violations
• Current approaches being used for resolving SNC-level violations at NPDES minor permittees
III. Overview of OECA’s Approach for Prioritizing SNC Follow-up Actions

1. Multi-State NPDES Violators: Selection Criteria
2. ECHO Search
3. Summary of Search Results
4. Next Steps
1. Multi-State NPDES Violators: Selection Criteria

**Goal:** Identify corporations with cross-state and cross-regional serious CWA-NPDES violations (*i.e.*, SNC or SNC-level) for potential follow-up investigation

**Selection Criteria:**
- NPDES non-POTW facilities
- Current status in violation (mining facilities not considered due to data issues)
- Same corporation occurs more than three times
- Corporation has violations in more than one state
- Corporation has at least one facility in current SNC for effluent violations
- Company has had a formal enforcement action in the last five years
- After steps above, corporation was further screened for additional violation information (*e.g.*, missed DMR counts and effluent violation counts)
2. ECHO Water Facility Search to Identify all NPDES Non-POTW Facilities Currently in Any Violation Status

Select all Permit Components except ‘POTW’ and ‘No Restrictions.’

Select the Following Under Compliance Status:
- Significant/Cat. 1 Noncompliance
- Violation/Cat. 2 Noncompliance
- New Violation
ECHO search results are exported to Excel and a pivot table is created; the number of times a facility name occurred is counted.

Facility list is alphabetized.

List is manually reviewed and facilities that are clearly part of the same corporation are combined.

Example of how “BNSF” facilities are listed in ICIS.
Facility names that came up more than three times were searched in the **ECHO Corporate Compliance Screener** to ensure the corporation had facilities in violation in multiple states and had at least one facility with effluent limit SNC violations.
Example of Compliance Report Generated

### Facility Search Results

<table>
<thead>
<tr>
<th>Facility Name</th>
<th>Facility Type</th>
<th>Violation Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example Facility</td>
<td>Example Type</td>
<td>Violation Reason</td>
</tr>
</tbody>
</table>

### Facility Violation Information (Any Recent Violation)

<table>
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#### Facility Details

- **Facility Name**: Example Facility
- **Violation Status**: Violation
3. Summary of Search Results for Potential Corporation Targets

- Identify total number of active facilities across multiple number of states and EPA regions
  - Facilities in one or more states within the same EPA region - EPA region would take the lead in coordinating an investigation with the affected state(s)
  - Facilities in multiple states across multiple EPA regions - OECA would take the lead in coordinating an investigation with the affected EPA regions and states
- Describe operations, types of discharges, and permit coverage at those facilities
- Summarize those facilities with CWA-NPDES violations and the subset with SNC violations
- Summarize the number of EPA and state formal enforcement actions taken against those facilities in the past 5 years
Example of potential corporation candidate for OECA investigation: travel centers (commonly found off of major highways)

- One of the largest operators of travel centers in North America
- Locations in 44 states which include fueling, restaurants, truck maintenance and washing, public laundry, showers

ECHO Compliance Screener Report: December 2019

- Results from recent quarter show 53 facilities with CWA-NPDES violations in 18 states, across 8 EPA regions
  - 11 of those facilities had NPDES SNC violations: 7 for DMR non-submittal and 4 for effluent limit exceedances
  - 42 of those facilities were in noncompliance but had “sub-SNC” violations
- ECHO data shows 36 concluded EPA and state formal enforcement actions over the past 5 years
4. Next Steps

• Develop and issue an Information Request to collect additional information such as:
  o Corporate structure
  o List of all facilities
  o Type of permit or “No Exposure Certification (NEC)” coverage for each facility and copies of them
  o Which facilities have WWTPs and what pollutants are treated
  o Types of discharges (e.g., wastewater or stormwater)
  o Analytical monitoring results
  o Copies of past local or state correspondence relating to compliance
  o Corporate environmental compliance program

• Coordinate with affected Regions and States on any follow-up inspections and enforcement actions