



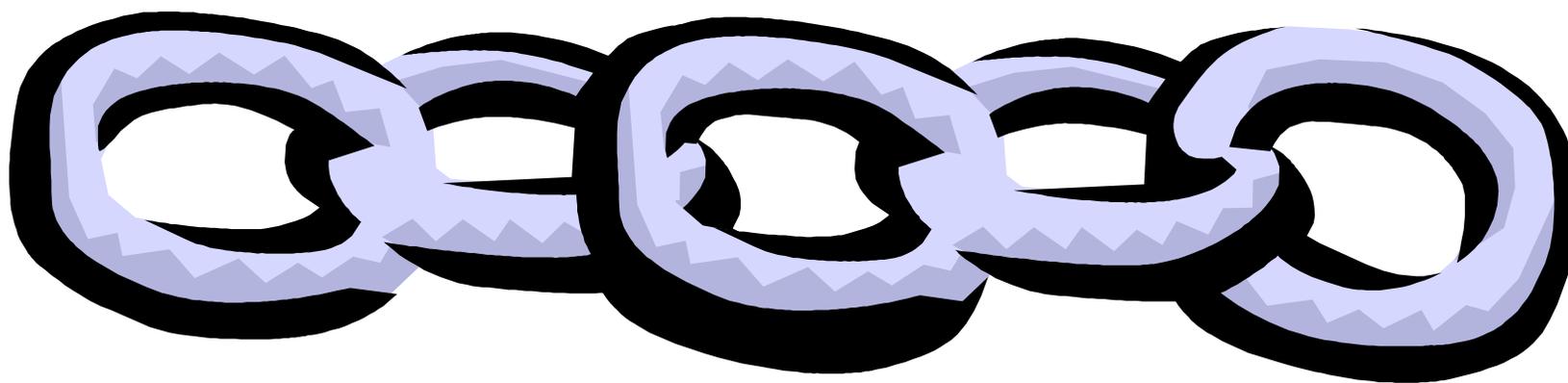
A “**Systems Approach**” To Enforcement and Compliance Monitoring

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We Need to Recognize Enforcement and Compliance Monitoring as a “System”

A system that contains five key links



1

2

3

4

5

Target + Inspector + Regulatory + Communication + Enforcement
Quality Knowledge Knowledge Skills Actions



What Are We Trying to Improve?

Example: We start with 10 known violations at the facility:

10 violations

- **1 Lost**, poor note taking
- **1 Lost**, illegible field notes
- **1 Lost**, missing “elements of proof” for violations
- **1 Lost**, poor reg. knowledge - violation not recognized
- **1 Lost**, violation buried in poorly written report

5 violations are left to enforce !!!

- **50% of our enforcement effort was wasted!!!**

From audits of EPA and State inspection reports

How Do I Know What I Know?



Running Theme – How Do I Know What I Know?

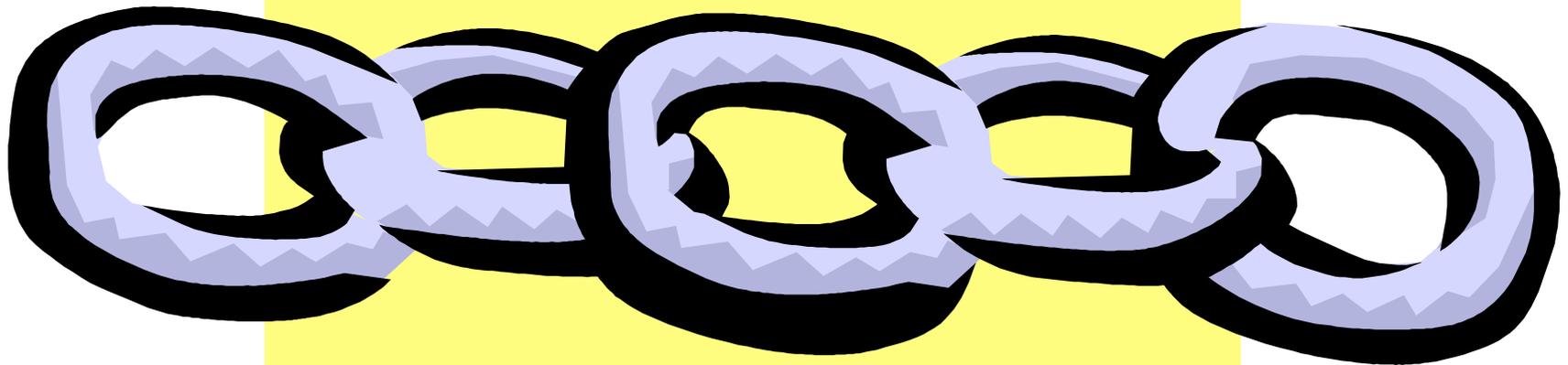
- This is the **single most important question** each inspector must be able to answer
- It must be answered for **each piece of information** in the inspection report
- Failure to answer this question leads to information gaps, lack of proof, failed cases and a waste of time
- When reviewing an inspection report, **look for - the basis of each “alleged fact”**
 - For example: “The facility has been in operation since 1965.” How do they know this? Who told them? Etc.

How Do I Know What I Know?



Generally, Inspector Managers Are Responsible for 3 of the 5 System Links

How do you know these links are strong?



1

Target +
Quality

2

Inspector +
Knowledge

3

Regulatory +
Knowledge

4

Communication +
Skills

5

Enforcement
Actions

How Do I Know What I Know?



Link 1

Inspection Targeting

- How do you know if the facility was well targeted?
 - What “targeting process” was used?
 - Have compliance issues in other programs been evaluated?
 - Was state information evaluated?
 - Were databases, the Web, and other resources checked?
- Do you have inspectors saying a particular inspection was a waste of time?
- **BOTTOM LINE:**
 - Managers and inspectors are responsible
 - **And**
 - Inspectors must know **why** they are inspecting a facility and **how** the information is going to be used?

How Do I Know What I Know?



Link 1

Inspection Targeting

- Inspections are expensive!
 - Average costs = **\$9,000-\$16,000 per inspection (2002)**
 - Routine Air, RCRA, & Water inspections consist of: prep time, field work, report writing, and the review time of compliance officers and attorneys
- How much do your inspections cost?
 - Most inspectors, managers, and program staff do not know.
 - How can you spend public resources effectively?
- Picking the target **starts the enforcement train in motion** – it starts the cost/effort train also
- Lets make sure the inspection is worth doing

How Do I Know What I Know?



Link 2 Inspector Knowledge

- Inspector/Auditor Knowledge:

Those procedures, skills, and techniques required to conduct an inspection that are **independent** of the subject mater or media

- tax audits, nursing home inspections, aviation inspections, criminal investigations, etc.

How Do I Know What I Know?



Link 2

Inspector Knowledge

- Collecting information
 - Learn to take copious, detailed notes.
 - Develop your own “shorthand.”
 - Initials, arrows, etc.
 - You can never take too many notes.
 - Record “exact quotes” whenever possible.
 - Take your time when you need to.
 - Take plenty of photos.
 - Use a photo log.

How Do I Know What I Know?



Link 2

Inspector Knowledge – Common Problems

- Lack of **preparation**
- **Too much** reliance on old reports, checklists, and information from facility **without verification**
- Lack of **industry or process knowledge**
- **Not recognizing** what was observed
 - how it relates to facility operations
 - how it relates to regulatory applicability

How Do I Know What I Know?



Link 2

Inspector Knowledge – Common Problems

- Poor Questioning/Interviewing Skills
 - Not knowing how to “get to the bottom of it”
 - Being unable to obtain a true understanding of what is going on
 - Poorly focused questioning techniques
 - Ineffective follow-up questions
- Not knowing what the “Elements of Proof” are for each statute, regulation, or permit
 - Inspectors must know how to document each element of proof before they do the inspection

How Do I Know What I Know?



Link 3

Regulatory Knowledge

- How well do you know the statutory, regulatory, or permit requirements?
 - Managers, how do you know how well they know?
- To be the most effective **the regulations must essentially be memorized**
 - Checklists ensure all areas are covered, but **do not substitute for internalized knowledge**
- Common problem: Inability to **recognize** violations
 - Memorization = Problem Recognition
 - No Memory = No Problem

How Do I Know What I Know?



Link 4

Communication Skills

A Good Inspection Report:

- Will communicate the findings and observations in an **easily understood** way that **can not** be **misinterpreted** by the reader.
- **Answer** all questions related to each element of regulatory compliance
 - **Clearly identify** areas of non-compliance
 - Provide all **necessary proof**
- **Eliminate** the need for **follow-up questions** or additional requests for information

How Do I Know What I Know?



Link 4

Communication Skills

- **Key characteristics include:**
 - **Clear**, written in **first** person
 - **Concise**, no extraneous dribble
 - **Timely**, written “**near in time**”
 - Do you have an established timeframe? 30/60/90 days?
 - **Understandable**, use simple language and short sentences
 - **Complete**, covered all “**elements of proof**” and sources of information



Link 4

Communication Skills – Writing Style

- For potential violations or concerns:
 - A **Compare** and **Contrast** writing style should be used

Compare the Standard - The legal or regulatory requirement or permit condition - **using the actual language as written**

AGAINST:

The Observations (Contrast) – What the inspector observed, witnessed, and **documented as evidence** that demonstrates **how the facility failed to meet the requirement**

How Do I Know What I Know?



Link 4, Communication Skills - Examples

Potential Violation #4 - Failure To Close Hazardous Waste Satellite Accumulation Container:

“On Monday morning, while in the aerosol can fill area (see map – attachment 3), I observed one full 55-gallon satellite accumulation container that was open (photo 1). I verified the drum was full by looking inside of it. Mr. Helpful, the Aerosol Can Fill Operator, said he used the container to collect spent solvent. He said the spent solvent was Mecos lacquer thinner that he used to wash painting equipment (MSDS- attachment 9). I asked Mr. Helpful if he considered the spent solvent hazardous waste. He said yes, he managed it as F003/F005 hazardous waste because it was spent. Containers holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste, per 40 CFR 262.34(a)(1(i), ref. 40 CFR 265. 173(a).”

Who, What, When, Where, Why, and How?

How Do I Know What I Know?



Link 5 Enforcement

- Do you know what your Program's expectations are?
 - Inspections, sampling, etc.?
 - Do you have a service orientation?
- Does your product, the inspection report, **exceed** their expectations?
- Have you been **proactive** in heading off potential problems?
 - Communication and face to face meetings
- Are you **ready for trial**?
 - Have all procedures been **followed or explained** in the report?
 - Key goal of opposing counsel: Destroy your **credibility!**

How Do I Know What I Know?



IT IS UP TO YOU

How well have you spent your Agency's resources?

YOUR EFFORTS

- Targeting
- Hotel
- State/EPA Coord.
- Inspection Plan

- File Review
- Car
- Equipment
- Sample Plan

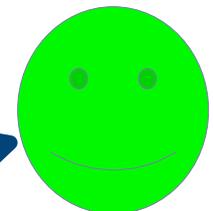
HIGH COST OF INSPECTIONS

- Reg. Review
- Driving Risk
- Documentation
- People Problems

- Training
- Site Visit
- Photos
- Meetings



THE RESULTS



GOOD



POOR

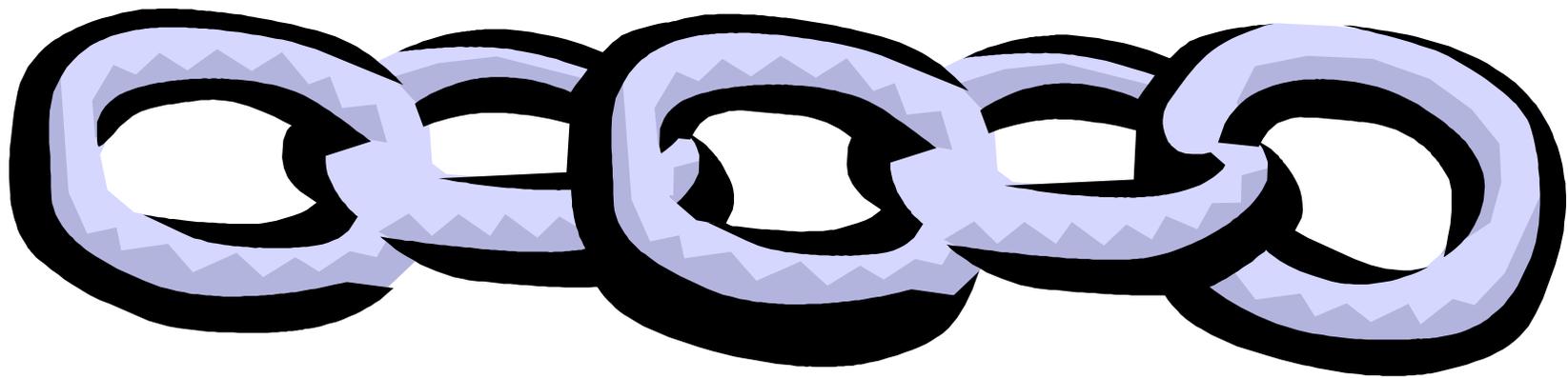
CHOKE POINT

How Do I Know What I Know?



Post Inspection Review? Could Any Links Be Improved?

How do you know each link is strong?



1

2

3

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Target + Inspector + Regulatory + Communication + Enforcement
Quality Knowledge Knowledge Skills Actions