

# A Thrilling Review of Oregon Health Authority, Drinking Water Services' Enforcement Practices

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# Welcome and introductions

- Hello, I'm Brad Daniels.

# What to expect today

- Reminders, expectations and admonishments
- M.D.E.
- If time allows; weekly MCL letters and anything else.

# Why are we here?

- In a recent survey, 100% of water system operators self-reported that they follow all the rules.
- Knowing that, you might ask, why does DWS require any compliance or enforcement actions?

# Reminders, admonishments and expectations.

1. Who drinks the water anyway? Not just the operator.
2. How to avoid the formal enforcement “freakout.” Perhaps better communication can help.
  - To that end, please don’t share proposed documents or actions with water suppliers before they are finished.
3. Compliance communication tip - ask for documents or a written response by a specified date.
4. Sigh. Contact reports please!

# Reminders, admonishments and expectations.

- PE50 requirements – yep, it's in there!
  - Tracking deficiencies (refer uncorrected priority deficiencies for formal enforcement)
  - Tracking violations (track and create contact reports)
  - Tracking compliance schedules (track/monitor compliance schedule activities)
  - PNC status (review status monthly, refer for formal enforcement if the underlying violations can't be returned to compliance within six months)

# Method Discussion Experience

- Here's what we'll talk about today:
  1. Significant deficiencies
  2. Formal Enforcement
  3. Priority Non-Complier Status
  4. Automatic Letters
  5. MCL Letters (if time allows)
  6. Anything else (if time allows)
- Not a Music Dance Experience – sorry.

# Significant deficiency compliance

- Priority
- Non-priority



# M.D.E #1

- What is a priority deficiency?
- Direct pathway for contamination to enter a water system (or treatment failure).
- Non-priority deficiencies are everything else.

## M.D.E #2

- How quickly must water suppliers correct significant deficiencies?
- For GW systems, 120 days after written notice (or water suppliers must comply with an action plan). For purchased SW, 45 days to submit a plan for corrections.

# M.D.E #3

- What is DWS' first compliance/enforcement step to compel correction of significant deficiencies?
- A warning letter (this isn't specified by procedure).
  - Letters are typically mailed 60 days after the deadline for corrections priority deficiencies; or
  - After a deficiency is cited in consecutive surveys (four to six years) for non-priority deficiencies.

# DWS formal enforcement

- Didn't we talk about this last year?

# M.D.E #4

- What actions count as “formal enforcement?”
- Bilateral compliance agreements,
- Administrative orders, and
- Civil penalties.

# M.D.E #5

- When or why might DWS proceed with formal enforcement?
- DWS procedure identifies situations not resolved after six months.
- The reality is:
  1. Violation of other formal enforcement;
  2. PNC status (prior to six months); and
  3. Violation of informal compliance schedule.

# Priority non-complier (PNC) status

- This might just be the most important thing ever!

# M.D.E #6

- What results in PNC status?
- 11 violations points



# M.D.E #7

- When must PNC status be addressed by enforcement?
- The PE-50 says a letter must be mailed after three months, and that
- The water system must be referred to DMCE for enforcement before six months.

# DMCE automatic letters

- The DWS, Data Management, Compliance and Enforcement unit (DMCE) issues letters after samples are received and entered into the SDWIS database.
- You should all receive courtesy copies.

# M.D.E #8

- What situations are addressed by DMCE “automatic” letters?
  1. Lead or copper exceeding the action level;
  2. Confirmed *E. coli* in a groundwater source; and
  3. Coliform investigations when triggered or when residual maintenance is required.

# M.D.E #9

- What is required when the action level (AL) for lead or copper is exceeded?
  1. Water quality parameters (EP and distribution);
  2. EP lead and copper sample;
  3. Public education (lead only);
  4. Treatment recommendation;
  5. Construction plans/plan review; and
  6. Treatment installation.

# M.D.E #10

- What actions are required after *E. coli* is confirmed in a groundwater source?
  1. Public notice; and
  2. Corrective action or an approved plan (within 120 days).

# M.D.E #11

- What should you do when a coliform investigation is triggered?
  1. Review the level 1 investigation completed by the water supplier, or
  2. Complete the level 2 investigation.
- Determine the source of the bacteria if possible and require corrective action.

# M.D.E #12

- When must sanitary defects discovered during a coliform investigation be corrected?
- According to OAR 333-061-0078(4):
  1. During the inspection;
  2. By the time the investigation report is submitted to OHA; or
  3. According to an approved timetable.

# Weekly MCL letters (if time allows)

- Could be anything
- Typically:
  1. Nitrate
  2. *E. coli*
  3. Arsenic
  4. HAA5 or TTHM



# Weekly MCL letters

- The letters for chemical violations require:
  1. Public notice (10 or 30 days); and
  2. A corrective action plan (60 or 90 days).
- If treatment exists, the letter for ac chemical violation requires:
  1. Public notice (10 or 30 days);
  2. An explanation for the treatment failure (30 days); and
  3. Restoration of treatment (30 days).
- Letters for *E. coli* MCL violations require public notice (10 days) and cooperation with the coliform investigation. They also suggest disinfecting the water system and talk to you about appropriate corrective action.

# Miscellaneous (if time allows)

- DWS tools to ensure non-compliance;
- Examples of/for how formal enforcement begins or progresses (case studies);
- OVS compliance and enforcement; and
- Formal enforcement timelines and expectations.