Overview of Enforcement under the Safe Drinking Water Act (SDWA)

HILLARY HECHT
ENFORCEMENT OFFICER
US EPA, REGION 9
ENFORCEMENT DIVISION
UIC/PWSS/FIFRA SECTION
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Region 9 Enforcement Division Programs

• Inspections, enforcement, and oversight of all federal statutes and primacy programs (few exceptions)

• Environmental Justice Coordination

• National Environmental Review Act Program
Drinking Water Enforcement

- Role(s) of the drinking water enforcement section

- Enforcement Division coordination with Region 9 Water Division

- In FY14, Enforcement Division conducted drinking water inspections in Indian Country and joint inspections with States

- PWS Inspectors have observed violations ranging from failure to post public notifications to mcl Exceedances

- Enforcement Tracking Tool (ETT)
Drinking Water Enforcement
Drinking Water Enforcement
Enforcement Response Policy (ERP) 
Signed on Dec. 8, 2009

MEMORANDUM

SUBJECT: Drinking Water Enforcement Response Policy
FROM: Cynthia Giles 
Assistant Administrator
TO: Regional Administrators

Attached is a new enforcement approach designed to help our nation's public water systems comply with the requirements of the Safe Drinking Water Act. This new approach replaces the existing contaminant by contaminant compliance strategy with one that focuses enforcement attention on the drinking water systems with the most serious or repeated violations. This new strategy will bring the systems with the most significant violations to the top of the list for enforcement action in states, territories and in federal Indian Country, so that we can return those systems to compliance as quickly as possible. As we work to protect the public's access to clean and safe drinking water, we need to be especially vigilant about noncompliance that has the potential to affect children, such as violations at schools and day care centers.

This policy was developed through the intensive cooperation of the Association of State...
Enforcement Response Policy

- System-based approach that prioritizes public water systems by assigning a point score based on the threat to public health.

  - Sum \((S_1 + S_2 + S_3 + ... \) + \(n\)
The Formula

- **Sum of:** \((S_1 + S_2 + S_3 \ldots) + n\)
- **\(S\)** = Severity of the violation
  - 10 points
    - For each acute health based violation
  - 5 points
    - For other health-based violation and Total Coliform Rule (TCR) repeat monitoring violation,
  - For each nitrate monitoring and reporting violation
  - 1 point
    - For each other monitoring and reporting or any other violation
- **\(n\)** = number of years that the system’s oldest violations have been unaddressed (0-5)
## Examples of Priority PWSs per the ERP

<table>
<thead>
<tr>
<th>PWS</th>
<th>Violations - # and Severity (S)</th>
<th>Years (n)</th>
<th>Score ((\sum S) + n)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABC Town</td>
<td>2 acute turbidity exceedances.</td>
<td>0 (both in current year)</td>
<td>((10+10)+0) 20</td>
</tr>
<tr>
<td>DEF MHP</td>
<td>2 non-acute TCR MCL violations.</td>
<td>1 (1 in previous year)</td>
<td>((5+5) +1) 11</td>
</tr>
</tbody>
</table>
How does a PWS get on EPA’s Radar?

- A national enforcement priority is defined as a system scoring **11 points or higher** using the S+n formula.

- Targeting systems that are significant non-compliers with health based violations.
The Enforcement Response Policy Targeting Tool

- PWS Ranking using Sum of $(S1 + S2 + S3 + ... + n) \text{ Formula} -

Database: Jan 2015 [SWPS/FED Freeze]
(For most states, this includes data up to Sept 30, 2014.)

<table>
<thead>
<tr>
<th>EPA Region</th>
<th>Status</th>
<th>PWSID</th>
<th>PWSName</th>
<th>ETT</th>
<th>S1 has Ter 1 week?</th>
<th>PWS Type</th>
<th>Priority Score Date</th>
<th>Reported Viol.</th>
<th>BTC/CFS</th>
<th>Viol. Rate</th>
<th>School or Clinic</th>
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<tbody>
<tr>
<td>50</td>
<td>N</td>
<td>00402094</td>
<td>Moshongtucket (Upper Spotted/Uppermose)</td>
<td>168</td>
<td>N</td>
<td>CVS</td>
<td>3/2/2010</td>
<td>122</td>
<td>22</td>
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<tr>
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<td>Torres Martinez (East)</td>
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<td>Squasset Stream (Lowell Mohongton)</td>
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<td>Shrewsbury</td>
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<td>CVS</td>
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<tr>
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<td>00402101</td>
<td>Tide River Reservation Park</td>
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<td>CVS</td>
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<td>P.T. McDermott Point (South)</td>
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<td>24</td>
<td>hot on Path</td>
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</tr>
</tbody>
</table>

Notes:
- ETT: Enforcement Termination Time
- PWS Type: Potable Water System
- Priority Score Date: Date of Priority Score
- Reported Viol.: Date of Reported Violation
- BTC/CFS: BTC/CFS Score
- Viol. Rate: Violation Rate
- School: School Impacted
- Clinic: Clinic Impacted
Enforcement Response Policy Objectives

- EPA and States take formal enforcement actions within 6 months of a PWS appearing on the ERP list
- Resolve drinking water violations
- Take steps to address public water systems that are out of compliance
How do you get off the Enforcement Radar?

• Return to Compliance

• Formal Enforcement Action(s)
A public water system has completed monitoring, reporting or implementation of treatment or other activities to be in compliance with the regulations.
Formal Enforcement Action(s)

- (1) contain a description of the non-compliant violation, a citation to the applicable State, or federal law or rule, a statement of what is required to return to compliance, and a compliance schedule; and

- (2) provide the State with authority to impose penalties for violation(s) of the State’s enforcement document.
EPA-NDEP Coordination

- EPA’s Office of Enforcement & Compliance Assurance (OECA)
  - Produces quarterly Enforcement Tracking Tool
- EPA Region 9
  - Sends ETT to NDEP
- EPA Region 9 and NDEP
  - Quarterly discussion on systems 11 and above
- NDEP
  - Addresses systems within 6 months of appearing on the ERP list
- Cycle Repeats