



Nov. 2008

DOH 331-339  
Revised

## Fact Sheet

# How enforcement affects operating permits

The Department of Health Office of Drinking Water (ODW) has a long history of educating owners and operators on the requirements of running public water systems, and helping them address problems. If a system doesn't comply with applicable drinking water rules, we take enforcement action—generally in the following order:

1. Notify the system of the violation and offer technical assistance.
2. Establish an informal compliance agreement.
3. Issue a departmental order.
4. Assess fines.

### Operating Permits

State law requires Group A water systems to obtain an annual operating permit. ODW uses color-coded operating permits to rate system compliance with drinking water rules, and let consumers, regulators, and lenders know the adequacy of the system to meet current needs or to grow.

Operating Permit Color	Adequacy Response		System Compliance Status
	Growth	Existing Uses	
<b>Green</b>	Yes*	Yes	Substantially in compliance as long as it doesn't exceed the approved number of connections.
<b>Yellow</b>	Yes**	Yes	Substantially in compliance. However, system notified to submit a water system plan and hasn't satisfied the requirement; and/or system is under a compliance agreement for a state significant non-complier violation.
<b>Blue</b>	No	Yes	Substantially in compliance. However, system does not meet design approval or it has exceeded the approved number of connections.
<b>Red***</b>	No	No	Substantial non-compliance. Inadequate for existing or future uses.

\*Up to the approved number of connections.  
 \*\*Up to the approved number of connections unless otherwise limited by a compliance agreement.  
 \*\*\* Permits or licenses for properties the system serves may be denied and lenders may not finance loans.

### Bilateral Compliance Agreement

A **Bilateral Compliance Agreement (BCA)** is a signed agreement between a water system and ODW. We often use BCAs with systems that show good faith in their attempt to comply with the rules. A BCA lists commitments and deadlines we expect the system to meet. We will defer enforcement and intercede on behalf of the system with the U.S. Environmental Protection Agency for violations addressed in the BCA as long as the system meets the conditions of the agreement.

A water system in substantial non-compliance can avoid getting a red operating permit as long as it enters into a BCA and complies with the milestones. If the system fails to complete the tasks in the BCA, the operating permit changes to red and ODW considers formal enforcement.



HELPING TO ENSURE SAFE AND RELIABLE DRINKING WATER

## Formal enforcement

ODW will begin formal enforcement if informal attempts to bring a system into compliance fail. This usually occurs when a system goes into substantial non-compliance and is not under a BCA, or public health is threatened. Formal enforcement includes many types of action, all designed to bring the system into compliance with applicable drinking water rules.

A **state departmental order (SDO)** directs a system’s owner and operator to take specific actions to return to compliance within a set time frame. Failure to comply with the SDO results in a red operating permit.

A **state agreed order (SAG)** can be issued when a system agrees to make the changes needed to return to compliance. Failure to comply with the SAG also results in a red operating permit.

A **state health order (SHO)** is issued when a situation poses an imminent threat to public health. The system’s operating permit immediately changes to red when ODW issues an SHO. It remains red until the system satisfies all requirements of the order.

## How Orders and Agreements Affect Operating Permit Color

This table shows how complying with a BCA or an order can affect a system with a red operating permit:

Document in place	<i>System with a red operating permit is:</i>			
	<i>NOT a Significant Non-complier</i>		<i>A Significant Non-complier</i>	
	Complies w/document	<i>Fails to comply w/document</i>	Complies w/document	<i>Fails to comply w/document</i>
Bilateral Compliance Agreement	<i>GREEN*</i>	<i>**</i>	<i>YELLOW***</i>	<i>RED</i>
State Agreed Order	<i>GREEN*</i>	<i>RED</i>	<i>YELLOW***</i>	<i>RED</i>
Departmental Order	<i>GREEN*</i>	<i>RED</i>	<i>RED</i>	<i>RED</i>
State Health Order	<i>RED</i>	<i>RED</i>	<i>RED</i>	<i>RED</i>

\* Green is the best-case scenario. A system could be categorized “blue” if it has too many connections or lacks proper approvals, and “yellow” if it doesn’t have a required Water System Plan.

\*\* The regional office can also change a permit color after evaluating other criteria.

\*\*\* Yellow is the best-case scenario. We could categorize a system “blue” if it has too many connections or it lacks proper approvals.

## For More Information

Contact the nearest ODW Regional office:

Eastern Region (509) 456-3115

Northwest Region (253) 395-6750

Southwest Region (360) 236-3030



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