



We work with others to protect the health of the people of Washington State by ensuring safe and reliable drinking water.



**UPDATES:**  
**COMPLIANCE ASSURANCE &  
ENFORCEMENT PROGRAM**  
Washington State Department of Health  
Office of Drinking Water

# Drinking Water Advisory Group

September 9, 2019



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Policy and Planning

# Delegated Federal Authority

ODW has primacy authority under federal Safe Drinking Water Act (SDWA).

- RCW 70.119A.080 & 2015 Public Water Supply Supervision Grant Work Plan, Health/EPA, October 2015.

# Federal Requirements

Federal law requires Group A public systems to:

- Refrain from exceeding MCLs for various contaminants.
- Meet minimum water quality monitoring standards.
- Do appropriate reporting.
- Provide public notifications to system users.
- Hire qualified professionals to operate.
- Detect and treat for a specific set of contaminants commonly found in drinking water.

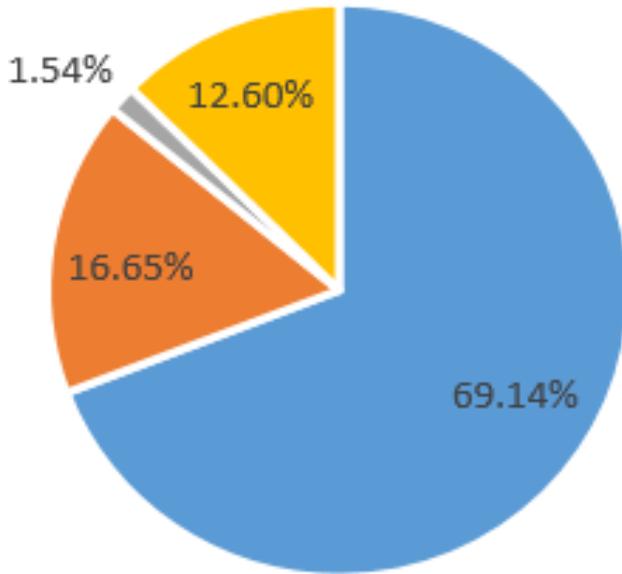
EPA directly administers SDWA where ODW lacks delegated authority (systems on certain federal tribal lands).

# Violator Statistics—2016

- 4,079 Group A public water systems subject to federal requirements—July 1, 2016.
- 72+ percent (2,954 systems) incurred *zero* federal drinking water infractions.
- Almost 50 percent of violators (1,125 systems) were very small water systems serving fewer than 100 people.
  - These often lack sufficient *financial, technical, and managerial capacity* to comply consistently and effectively with regulatory requirements of operating a Group A system. Lesson = consolidation/capacity development.

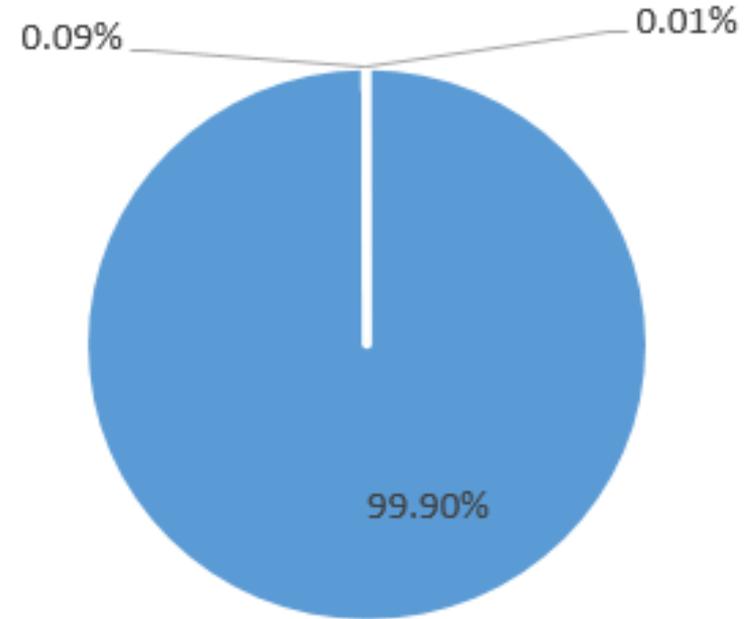
# Drinking Water Population Landscape—2016/17

WA Population Served by System Type



■ Large Group A ■ Small Group A ■ Group B ■ Private

All Group A Systems



■ Community ■ NTNC ■ TNC

# Risk-Based Compliance Assurance and Enforcement

- ODW cares about and takes action for any drinking water violation.
- ODW calibrates its compliance assurance and enforcement program to prioritize situations that present the highest public health risks.
- Consistent with the approach taken under EPA's NPDWRs and Enforcement Response Policy (ERP).
- ERP available at:  
[epa.gov/sites/production/files/documents/drinking\\_water\\_erp\\_2009.pdf](https://www.epa.gov/sites/production/files/documents/drinking_water_erp_2009.pdf).

# Risk-Based Compliance Assurance and Enforcement

Compliance and Enforcement Approach:

- Prioritize high-public-health-risk situations.
- Prioritize acute contaminants (then chronic).
- Prioritize contamination (monitoring).
- Prioritize National Primary Drinking Water Regulations.
- Guided by EPA Enforcement Response Policy.
- Prioritize performance standards for system operators.
- Systems struggling with capacity.

# Approach/Philosophy

## Compliance Assurance and Enforcement

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- Focus on protecting public health.
- Educate and inform water consumers.
- Ensure purveyors and operators understand their legal obligations.
- Allow a fair opportunity to achieve compliance.
- Support water system compliance in every reasonable way.
- Hold purveyors and operators accountable for compliance.

# Approach/Philosophy

## Compliance Assurance and Enforcement

- Compliance assurance and enforcement broadly encompass “soft” and “hard” tools.



# Approach/Philosophy

## Compliance Assurance and Enforcement

Soft, typically include:

- Education—during water-system planning process and sanitary surveys.
- Technical assistance.
- Help seeking grants and low-interest loans for infrastructure projects.
- Assistance developing technical, managerial, and financial capacity to comply consistently with complex drinking water standards.

# Approach/Philosophy

## Compliance Assurance and Enforcement

*(Continued)*

- Assistance pursuing consolidation with other water systems.
- Violation letters, identifying violations/how to return to compliance (RTC).
- Final warning that formal enforcement/hard is coming if no RTC:
  - Was called Notice of Violation (NOV).
  - Under updated enforcement strategy, is called Notice to Correct Violations (NCV).

# Approach/Philosophy

## Compliance Assurance and Enforcement

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Hard, typically include:

- Turning system's operating permit to category "red" (and warning that civil penalties are coming if no RTC).
  - Was called Notice of Correction (NOC).
  - Under updated enforcement strategy, is called Order to Correct Violations (OCV).
- Issuing civil penalties (all purveyors and operators jointly and severally liable and subject to collections process).
- Water system operator certification—suspension or revocation.
- Coming: Ordering water systems to study themselves for consolidation with other water systems, in response to chronic violations. (American's Water Infrastructure Act of 2018 (AWIA)).

# Approach/Philosophy

## Compliance Assurance and Enforcement

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Hard, less typically include:

- Court-ordered water system receivership.
- Court-ordered specific performance of ODW final orders.
- Court orders to enjoin a violation or threatened violation of drinking water laws.
- Emergency order.

Always continue using soft tools, where appropriate.

# Approach/Philosophy

## Compliance Assurance and Enforcement

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May be times ODW skips steps or moves faster to use more powerful tools first.

- See, e.g.: RCW 43.05.110; RCW 34.05.110(4); RCW 70.119A.040(9)
- Emergencies that warrant *emergency orders*, which can be coupled with civil penalties.
- Violation will either directly endanger public health, pose a significant threat to human health, or cause serious harm to the public interest.
- Knowing or willful violation.

# Approach/Philosophy

## Compliance Assurance and Enforcement

Moving faster to more powerful tools, (continued):

- System previously violated a substantially similar requirement.
- Owner or operator has *other system(s)* with previous and substantially similar violations.
- System, owner, or operator has previously been notified about or was subject to enforcement for the same or similar violations.
- Violation was committed by a business that employed 50 or more employees on at least one day in each of the preceding 12 months.

# U.S. EPA Oversight

- ODW has EPA's permission (delegated authority) to implement federal Safe Drinking Water Act for U.S. EPA.
- ODW reports violations of NPDWR to EPA.
- Quarterly and annually, EPA tracks ODW's efforts to return systems to compliance.
- EPA's uses *Enforcement Tracking Tool (ETT)* to track water system violations and ODW's efforts to RTC them.
- Score of 11 = "priority system."

# U.S. EPA Oversight *(Continued)*

- Under *EPA's 2009 Enforcement Response Policy* EPA gives ODW six months to either:

- RTC priority/violating systems
- Put system under an enforcement document:
  - *from which civil penalties can issue*
  - *without having to prove the underlying violations.*

*"EPA formal enforcement document"/"addressing document"*

- Roadmap to achieve this under WA Administrative Procedures Act: Send certified mail to ensure delivery, allow "exhaustion of administrative remedies" (appeal), and achieve a *"final agency order."*

## U.S. EPA Oversight *(Continued)*

- EPA can “over file:” pursue direct federal enforcement against a water system, if it finds it necessary to gain compliance.
- State can request that EPA over file.

# U.S. EPA Oversight

## The Enforcement Response Policy Targeting Tool - PWS Ranking using Sum of (S1 + S2 + S3 + ...) + n Formula -

Threshold are high  
11  
4/1/2019

Database: Apr 2019 SDWIS/FED Freeze  
(For most states, this includes data up to Dec 31, 2018.)

PWS Name	ETT Score	Sys has HB viols?	PWS Type	Pop Srvd	Priority Since Date	Repeat Violator Tool	Total Unresolved Points	On Path to Compliance	School or Childcare	Owner Type Code	Last Lead 90% result (mg/L)	Num Lead ALEs 5 yrs
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The Enforcement Response Policy Targeting Tool - PWS Ranking using Sum of (S1 + S2 + S3 + ...) + n Formula -

T Scores above the following threshold are highlighted: 11

Database: Apr 2019 SDWIS/FED Freeze (For most states, this includes data up to Dec 31, 2018.)

EP	ST	PWS	PWS Name	ETT Score	S	N	PN	P	Pr	Ra	Tot	On P	Sch	On	Last	Num
									Rate	Vi	Unre	Comp	ool	Pa	Lead	LEA
										o	sol	l			resul	res
10	WA			44	V	HTNOWS	75	09/30/2011	320	60	Natun Path	N	P		0.0011	
10	WA			41	V	CWS	240	02/20/09	200	60	Natun Path	N	L	P	0.0015	
10	WA			51	V	HTNOWS	35	02/20/09	44	80	Natun Path	N	P		0.004	
10	WA			24	V	CWS	234	09/30/2011	21	21	Natun Path	N	P		0.002	
10	WA			24	V	CWS	878	02/20/09	20	20	Natun Path	N	P		0.0012	
10	WA			22	V	CWS	46	12/02/07	20	20	Natun Path	N	L	P	0.0023	
10	WA			21	V	CWS	233	12/02/09	52	21	Natun Path	N	L	P	0.001	
10	WA			20	V	HTNOWS	202	12/02/09	21	20	Natun Path	N	P		0.001	
10	WA			20	V	CWS	54	02/20/09	30	20	Natun Path	N	P		0.001	
10	WA			20	V	CWS	130	02/20/09	49	20	Natun Path	N	P		0.0029	
10	WA			16	V	CWS	40	12/02/09	17	15	Natun Path	N	P		0.0019	
10	WA			15	V	TNOWS	27	02/20/09	87	75	Natun Path	N	P		0.0011	
10	WA			17	V	CWS	1147	09/30/2011	19	15	Natun Path	N	L	P	0.0032	
10	WA			17	V	CWS	95	12/02/09	17	12	Natun Path	N	P		0.0001	
10	WA			16	V	HTNOWS	80	09/30/2011	15	15	Natun Path	N	P		0.001	
10	WA			15	V	CWS	45	12/02/09	21	15	Natun Path	N	P		0.001	
10	WA			15	V	CWS	103	12/02/09	19	15	Natun Path	N	P		0.003	
10	WA			15	V	CWS	240	02/20/09	20	15	Natun Path	N	P		0.001	
10	WA			15	V	CWS	40	02/20/09	17	15	Natun Path	N	P		0.001	
10	WA			15	V	CWS	22	02/20/09	22	15	Natun Path	N	P		0.0003	
10	WA			15	V	CWS	35	02/20/09	15	15	Natun Path	N	P		0.001	
10	WA			15	V	CWS	44	02/20/09	16	15	Natun Path	N	P		0.0015	
10	WA			14	V	TNOWS	10	09/30/2011	14	10	Natun Path	N	P		0.0027	
10	WA			14	V	CWS	200	09/30/2011	11	10	Natun Path	N	P		0.0027	
10	WA			14	V	CWS	120	09/30/2011	11	10	Natun Path	N	L	P	0.0012	
10	WA			14	V	CWS	1416	12/02/09	10	10	Natun Path	N	L	P	0.001	
10	WA			13	V	CWS	95	12/02/09	13	10	Natun Path	N	P		0.001	
10	WA			13	V	CWS	252	09/30/2011	10	10	Natun Path	N	P		0.001	
10	WA			13	V	CWS	244	09/30/2011	11	10	Natun Path	N	L	P	0.0011	
10	WA			13	V	CWS	295	09/30/2011	23	10	Natun Path	N	P		0.0003	
10	WA			13	V	TNOWS	30	06/20/07	30	10	Natun Path	N	S		0.0003	
10	WA			12	V	TNOWS	100	02/20/09	10	10	Natun Path	N	P		0.001	
10	WA			12	V	TNOWS	102	02/20/09	23	10	Natun Path	N	P		0.001	
10	WA			12	V	CWS	34	02/20/09	14	7	Natun Path	N	P		0.0025	
10	WA			12	V	CWS	110	02/20/09	11	7	Natun Path	N	P		0.002	
10	WA			12	V	CWS	530	02/20/09	4	10	Natun Path	N	P		0.0005	
10	WA			12	V	CWS	121	02/20/09	21	7	Natun Path	N	P		0.0045	
10	WA			11	V	CWS	84	12/02/09	10	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	45	12/02/09	24	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	240	12/02/09	11	10	Natun Path	N	L	P	0.002	
10	WA			11	V	CWS	107	09/30/2011	14	10	Natun Path	N	L	P	0.0012	
10	WA			11	V	TNOWS	54	02/20/09	19	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	1725	02/20/09	15	10	Natun Path	N	L	P	0.0023	
10	WA			11	V	TNOWS	649	02/20/09	12	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	75	02/20/09	13	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	10	02/20/09	10	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	330	02/20/09	22	10	Natun Path	N	P		0.0015	
10	WA			11	V	CWS	110	02/20/09	10	10	Natun Path	N	P		0.0015	
10	WA			11	V	TNOWS	205	02/20/09	16	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	51	02/20/09	12	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	16230	02/20/09	7	10	Natun Path	N	L	P	0.001	
10	WA			11	V	TNOWS	50	02/20/09	11	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	239	02/20/09	17	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	222	02/20/09	13	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	52	02/20/09	21	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	9	02/20/09	14	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	107	02/20/09	22	10	Natun Path	N	P		0.0017	
10	WA			11	V	TNOWS	21	02/20/09	29	10	Natun Path	N	P		0.0017	
10	WA			11	V	CWS	445	02/20/09	7	10	Natun Path	N	L	P	0.0016	
10	WA			11	V	TNOWS	24	02/20/09	10	10	Natun Path	N	P		0.001	
10	WA			11	V	CWS	1740	02/20/09	12	10	Natun Path	N	L	P	0.001	
10	WA			11	V	CWS	1342	02/20/09	7	10	Natun Path	N	L	P	0.002	
10	WA			11	V	CWS	108	02/20/09	15	10	Natun Path	N	P		0.0017	
10	WA			11	V	TNOWS	200	02/20/09	20	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	60	02/20/09	15	10	Natun Path	N	P		0.001	
10	WA			11	V	TNOWS	43	02/20/09	17	10	Natun Path	N	P		0.001	
10	WA			10	V	TNOWS	44	02/20/09	84	60	Natun Path	N	P		0.001	

Large-spreadsheet intensive.

Note columns:

- Priority Since Date.
- Repeat Violator Tool.
- On Path to Compliance.

# U.S. EPA Oversight

Shows detail for each violation reported to EPA for every water system.

PWSID	PWS Name	ETT Sc	Pop Sr	PWS Ty	Violation T	Rule Name	Compl Per Begin	Compl Per End Date	Severity Points	RTCd Points	First RTC Date	Formal Action Points	Formal Action Date	Informal Action Point	School or Childcare	Implicit RTC	Viol Count	
66																		
64			75	NTNCWS	MCL	Nitrates	10/1/2015	12/31/2015	10					10.3	N	N	1	
64			75	NTNCWS	MCL	Nitrates	7/1/2015	9/30/2015	10					10.3	N	N	1	
64			75	NTNCWS	MCL	Nitrates	4/1/2015	6/30/2015	10					10.3	N	N	1	
64			75	NTNCWS	MCL	Nitrates	1/1/2015	3/31/2015	10					10.4	N	N	1	
64			75	NTNCWS	MCL	Nitrates	10/1/2014	12/31/2014	10					10.4	N	N	1	
64			75	NTNCWS	MCL	Nitrates	7/1/2014	9/30/2014	10					10.4	N	N	1	
61			34858	CWS	TT	Long Term 2 Enhanced Surface Water Treatment Rule	12/1/2018		5					0	N	N	1	
61			34858	CWS	TT	Long Term 2 Enhanced Surface Water Treatment Rule	1/1/2018		5					0	N	N	1	
61			34858	CWS	TT	Long Term 2 Enhanced Surface Water Treatment Rule	10/1/2018		5					0	N	N	1	
61			34858	CWS	TT	Long Term 2 Enhanced Surface Water Treatment Rule	01/1/2018		5					0	N	N	1	

# U.S. EPA Oversight

Spreadsheet tracks quarterly scores and ODW's activity for priority systems.

ID#	Name	ETT S July '17	ETT S Oct '17	ETT S Jan '18	ETT S April '18	ETT S July '18	ETT S Oct '18	ETT S Jan '19	ETT S April '19	RO	Health & Based Violations?	Sys Type	Pop	1st Date to 10 ptr	Repeat Violator Total (core)	EPA's "on path" designation	ODW recommendation for EPA Status	Sched Day Care	Addressed Tsr/No & (Corrected Score)	ODW Status & Comments
				232	297	297	317	323	61	E	Y	CWS	34,858	12/31/2017	330	Not on Path	On Path	N	Re: SW TT vio, No. But under ANOC, (0), subtract all points under ANOC.	Re: SW TT vio, an ANOC was signed on 9.17.15. As of 1.15.16, all benchmarks were met and sy additional benchmarks along the way. However, according to our financial lending/borrowing t complete construction (has issued bonds for \$24m), the water system has had problems selec

ID#	Name	ETT S July '17	ETT S Oct '17	ETT S Jan '18	ETT S April '18	ETT S July '18	ETT S Oct '18	ETT S Jan '19	ETT S April '19	RO	Health & Based Violations?	Sys Type	Pop	1st Date to 10 ptr	Repeat Violator Total (core)	EPA's "on path" designation	ODW recommendation for EPA Status	Sched Day Care	Addressed Tsr/No & (Corrected Score)	ODW Status & Comments
		72	83			34	34	64	E	Y	MTNC	75	03/30/2018	60	Not on Path	On Path	N	Re: nitrate MCL vios, Yes (0).	<b>DATA: Double check, do we have a way to make sure the RTC from July of 2017 is reported to EPA?</b>  System has RTC'd on 7/26/17 Approved Treatment installed. As of 11.15.17, Sentry shows no nitrate MCL exceedances after June 5, 17.  HISTORICAL: Re: Nitrate MCL vios, system is under 12.15.15 BCA to install new facilities. System was on track to complete project by 9.30.16, so ODW felt it did not need an NDC to RTC system. System ran into a glitch with a consultant and with getting settling ponds approved by Ecology. System then missed both deadlines in 9 of '16 to install facilities and continue quarterly monitoring. Based on communication with system, ODW has updated the BCA with a new date for installing treatment - 12.31.16. In October '16, ETT review, ODW anticipated there would be no problems with making the new deadline, weather permitting. But as of March 2017, the weather had not cooperated. We said that the ERO needed to update the BCA, again, (or issue an NDC) with a new weather-dependent date and that the ERO was talking with the consulting engineer that the water system hired to determine the best new deadline to include in the updated BCA or NDC. As of June 2017, this was not done. However, as of June 8, 2017, the consulting engineer has reported to the ERO that the system has a nitrate treatment system, but it is still off-line due to the chlorination system needing to be installed after treatment. The engineer said that he had recently received a chlorination equipment proposal for him to review and approve, which he said he was in the process of doing. The ERO believes the system should be able to get the chlorination equipment installed soon and then bring the whole system on-line. Therefore, at this time the ERO is waiting and seeing without updating the compliance documents.	
			232	297	297	317	323	61	E	Y	CWS	34,858	12/31/2017	330	Not on Path	On Path	N	Re: SW TT vio, No. But under ANOC, (0), subtract all points under ANOC.	Re: SW TT vio, an ANOC was signed on 9.17.15. As of 1.15.16, all benchmarks were met and system was slated to RTC on 7.31.18, complying with additional benchmarks along the way. However, according to our financial lending/borrowing team, even though the water system has funds to complete construction (has issued bonds for \$24m), the water system has had problems selecting a remedy (settled on slow sand filtration before deciding to switch to UV disinfection) and now the system and its consultant aren't working well together, such that construction documents that must be submitted to ODW for review and approval are delayed. It would not likely be helpful to move to a civil penalty. Instead, ODW and the system entered into an updated ANOC with the last benchmark being 8.15.19. Latest update for April 2019 ETT. We just modified the ANOC. Substantial Completion is now slated for 10/15/19 with a construction completion report due 1/15/2020.  RD note: The narrative above represents events correctly. We just had a recent inspection for progress (since the project is tied to SW monies) and they are on track to be completed by the date also mentioned above. All violations have already been	
		44	44	20	30	36	43	51	E	Y	MTNC	35	03/31/2018	36	Not on Path		N		<b>DATA: Can we involve Jane Schuster is helping rid the ETT of old violations like this.</b>	

# U.S. EPA Oversight

## Violator Statistics for Annual Report—2018

2018 Violations					Number of Systems with Violation Type	
Violation Category	Rule Group	Rule Name	Number of Viols	Number of Systems Violation Type	Number of Viols	Number of Systems with Violation Type
Maximum Contaminant Level Violation	disinfectants and Disinfection Byproducts Rule	Arsenic	14			
Maximum Contaminant Level Violation	Chemicals	Nitrates	37			
Maximum Contaminant Level Violation	Disinfectants and Disinfection Byproducts Rule	Stage 2 Disinfectants and Disinfection Byproducts Rule	26			
Maximum Contaminant Level Violation	subtotal		77			
Monitoring and Reporting	Chemicals	Lead and Copper Rule	33			
Monitoring and Reporting	Chemicals	Nitrates	291	268		
Monitoring and Reporting	Chemicals	Synthetic Organic Chemicals	318	15		
Monitoring and Reporting	Chemicals	Volatile Organic Chemicals	500	21		
Monitoring and Reporting	Disinfectants and Disinfection Byproducts Rule	Stage 2 Disinfectants and Disinfection Byproducts Rule	100	52		
Monitoring and Reporting	Microbials	Revised Total Coliform Rule	18	15		
Monitoring and Reporting	subtotal		1260	404		
Other Violation	Other	Consumer Confidence Rule	206	201		
Other Violation	subtotal		206	201		
Treatment Technique Violation	Microbials	Long Term 2 Enhanced Surface Water Treatment Rule	12	1		
Treatment Technique Violation	Microbials	Revised Total Coliform Rule	3	3		
Treatment Technique Violation	Microbials	Surface Water Treatment Rule	10	5		
Treatment Technique Violation	subtotal		25	9		
	total		1568	648	1568	648

As reported by EPA based on state reporting (imperfect due to reporting errors).

# U.S. EPA Oversight

- EPA Inspector General—March 22, 2016, report:  
*“Drinking water: EPA Needs to Take Additional Steps to Ensure Small Community Water Systems Designated as Serious Violators Achieve Compliance.”*
- Reviewed how quickly EPA/states RTC’d small systems.
- Findings:
  - Many systems not RTC’d for *exceedingly* long periods of time.
  - Where serious noncompliance persists, *EPA and states need to engage in a long-term, system-specific approach to bring about compliance.*

# U.S. EPA Oversight *(Continued)*

Report #16-P-0108, March 22, 2016, available at:

- [epa.gov/office-inspector-general/report-drinking-water-epa-needs-take-additional-steps-ensure-small](https://www.epa.gov/office-inspector-general/report-drinking-water-epa-needs-take-additional-steps-ensure-small)

and

- [epa.gov/sites/production/files/2016-03/documents/20160322-16-p-0108.pdf](https://www.epa.gov/sites/production/files/2016-03/documents/20160322-16-p-0108.pdf).

# U.S. EPA Oversight

EPA then:

- In 2016, re-invigorated its six-month RTC requirement from its longstanding ERP.
- In 2018, began a nationwide *Health Based Violations* Initiative, details of which are still developing and emerging.

Congressional 2018 action:

- American's Water Infrastructure Act of 2018 (AWIA) – brought numerous provisions, including:
- State ability to *order* water systems to study themselves for consolidation with other water systems, in response to chronic violations.

# U.S. EPA Oversight

EPA then, in 2019, finalized a policy:

- To enhance effective partnerships with states in civil enforcement and compliance assurance work.
- Describes procedures and practices for effective coordination between EPA and states to carry out shared responsibilities.

# U.S. EPA Oversight

EPA then, in 2019, finalized a policy (continued):

- Three sections:

1. Details requirements for joint planning and regular communication between EPA/states to promote enhanced, shared *accountability*.
2. Provides greater detail on EPA/state *roles and responsibilities*.
3. Provides a process to evaluate and resolve *issues*.

Link to EPA web page about policy:

[epa.gov/compliance/enhancing-effective-partnerships-between-epa-and-states-civil-enforcement-and-compliance](https://www.epa.gov/compliance/enhancing-effective-partnerships-between-epa-and-states-civil-enforcement-and-compliance)

# ODW Strategy/Process Update

ODW updated its statewide compliance assurance and enforcement strategy/process/procedures to:

- Respond to EPA's 2016 and *ongoing* action.
- Better align ODW process with state technical assistance law re: NOV/NOC.
- Simplify confusing wording in enforcement documents (e.g. part of NOC is appealable but part of it is not).

Upshot: will issue an EPA "formal enforcement document"/ "addressing document" *much faster* (hope to meet 6-month EPA from-time-of-priority-status ERP deadline).

# ODW Strategy Update

## Crosswalk from Old to New

- Violation Letters = largely the same.
  - Added language: This is an NOV under RCW 43.05.030 or NOC under RCW 43.05.100.
  - Will send to more people in the water system (owner, operator, primary contact, and certified operator if duty is operator's to perform).
  - Rational is that RTC will come sooner if more/key people know sooner that there is a problem.

# ODW Strategy Update

## Crosswalk from Old to New

- Notice of Violation (NOV)  
= Notice to Correct Violation (NCV)
- Notice of Correction (NOC)  
= Order to Correct Violation (OCV)
- Both are EPA “formal enforcement documents” / “addressing documents.”
- Both are initial agency “orders” under RCW 70.119A.020(9) and RCW 34.05.010(11).
- Both sent *certified mail* to ensure delivery, allow “exhaustion of administrative remedies” (appeal), and achieve a “final agency order.”

# ODW Strategy Update

## Crosswalk from Old to New *(Continued)*

### IN GENERAL

- NCV and OCV:
  - Will send to more people in the water system (owner, operator, primary contact, and certified operator if duty is operator's to perform).
  - NCV warns of "red" status.
  - OCV turns system "red" category and warns of civil penalty.

# System Categories—Red Status Does What?

Category	System is:	We view this system as:
Green	Substantially <b>in compliance</b> with regulations.	<b>Adequate</b> for existing uses and for additional service connections up to the number of approved connections.
Yellow	Substantially <b>in compliance</b> with all requirements. But it: <ul style="list-style-type: none"> <li>Was notified to submit a legally compliant water system plan and has not satisfied this planning requirement.</li> <li>Is under a compliance agreement to address the system's status as a state significant non-complier and is also acting in accordance with that agreement.</li> </ul>	<b>Adequate</b> for existing uses and for additional service connections up to the number approved by the Department in a water system plan or modified by the Department in a compliance document.
Blue	Substantially <b>in compliance</b> with requirements. However, the system does not have a Department-approved water system design or is no longer operating consistently with that design, or the system has exceeded the number of Department-approved connections.	<b>Adequate</b> for existing uses, but not adequate for adding new connections.
Red	Substantially <b>out of compliance</b> with requirements.	<b>Inadequate</b> for existing uses and no additional connections are allowed. This may result in denial of home loans, building permits, on-site sewage disposal permits, food service permits, liquor licenses, and other permits or licenses for properties the system serves.

# ODW Strategy Update

## Crosswalk from Old to New

- Bilateral Compliance Agreement (BCA)
  - = Formal Compliance Agreement (FCA).
  - Is an EPA formal enforcement/addressing document.
  - Not appealable; system waives right to appeal. This is a Final Agency Order when issued.
  - A contract, it specifies consequences of breach, including civil penalty issuance.
  - Can enter as a substitute for NCV, not OCV.
  - Can be used by Attorney General to settle appeal of any initial agency order, including OCV.
- Civil Penalty Order = same.

# Sample Action Combining System and Certified Operator

[Redacted]

Subject:

[Redacted]

Dear

[Redacted]

On April 4, 2019, you were issued a Notice of Correction (NOC) to install treatment, approved in ODW Project [Redacted] by June 14, 2019. We have not received verification the treatment was installed as required.

We are authorize to impose civil penalties under chapter 70.119A RCW and revoke or suspend your operator certification under chapter 246-292 WAC, due to the failure to follow ODW directives and deadlines.

We intend to move forward with issuance of civil penalties of (\$10,800) if the disinfection treatment is not installed by August 30, 2019.

We will also recommend to the operator certification program that proceedings be initiated to suspend or revoke your waterworks operator certification.

|  
If you have any questions, please contact me at

[Redacted]



# Call for Assistance



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