

## ENFORCEMENT ACTION PROCEDURES

**Purpose:** Enforcement of the Colorado Primary Drinking Water Regulations is critical to the health of the citizens of the state. Due to the large number of water systems in the state, the number of technical violations of the regulations requires some prioritization of enforcement activities.

In order to establish a consistent, responsible enforcement program, standardized procedures for reacting to violations of the Colorado Primary Drinking Water Regulations must be developed.

The intent of this document is therefore twofold; (a) to delineate procedures to be followed in reaction to violations of the drinking water regulations, and (b) to outline a prioritization system for enforcement actions. Clearly there must be some flexibility in both regards to allow for unique or unusual circumstances.

**Procedure:** Final decisions regarding drinking water enforcement actions must be centralized within the Drinking Water Section, regardless of how, or by whom violations are discovered. A coherent program requires that similar violations result in similar actions by this department. Drinking Water programmatic responsibility and accountability is located in this section and therefore critical enforcement decisions must be made here.

The detailed chain of events for enforcement actions will generally follow the outline below:

(1) Determination of violations: Accomplished either by physical inspection of facilities or by review of records by Division staff.

Facility inspections will be scheduled based upon the established inspection priority system. All community water systems will be inspected at least every 3 years.

Records will be reviewed based upon compliance periods outlined in the Colorado Primary Drinking Water Regulations to assure required monitoring is being accomplished and that test results are within contaminant limits established in the regulations.

(2) Determination of appropriate action: Once a violation is established, action appropriate to the violation will be taken. Appropriate actions may include phone calls, routine letters, certified letters, formal notice and orders, and lawsuits. The exact actions in response to various types of violations is outlined in the attached appendixes.

Violations can generally be categorized as follows:

- a. Upset, emergency situations

- b. Inadequate treatment
- c. Bacteriological maximum contaminant level (MCL)
- d. Turbidity MCL
- e. Bacteriological failure to monitor (FTM)
- f. Turbidity, FTM
- g. Chemical/Radiological MCL
- h. Chemical/Radiological FTM
- i. Siting, design review violations

- (3) Completion of enforcement action: before an enforcement action is considered complete, either the system will have complied with terms of any enforcement order(s) in this regard or civil and/or criminal proceedings will be pursued. Systems will not be considered in compliance until steps required by enforcement orders are documented. In the case of facility deficiencies, physical inspection will be required, in the case of FTM, MCL, etc. copies of required public notice and/or sample results must be received.

Memo to file must be written to document closure of case.

## II. Prioritization

Prioritization of enforcement actions for violations of the Colorado Primary Drinking Water Regulations is based upon three factors; the nature of the risk involved, the population at risk, the feasibility of correction of the deficiency which results in the risk.

The nature of the risk involves the immediacy of the health effect brought about by the violation and the nature of that effect. For example, the consumption of drinking water with pathogenic organisms can cause an immediate adverse health effect; on the other hand, the arsenic limit is based upon limiting arsenic intake from drinking water to 10% of the total daily arsenic intake from all sources. Clearly the nature of these effects is dissimilar. Similar comparisons can be made involving physical microbiological, turbidity and other chemical contaminants. Decisions regarding the timing and nature of enforcement actions therefore must include consideration of the nature of the risk from, and not merely the existence of, violations of the Colorado Primary Drinking Water Regulations.

Population at risk is involved in prioritization since, given limited resources, more public health effect can be attained by enforcement action involving large populations than small ones. Feasibility of correction involves availability of technology and, to a lesser extent, the economic impact of actions required to achieve compliance. In addition, if only an isolated and identifiable group within the population is affected by a contaminant involved in a violation, rather than the entire population, the health impact of the violation may be mitigated by actions short of enforcement.

Therefore, highest priority for enforcement is assigned to a violation which has a immediate health effect on all members of a large population and can be resolved by economically available technology.

A general scheme for prioritization of enforcement actions follows:

- Group 1: Inadequate treatment
  - a. Lack of chlorination
  - b. Lack of filtration (surface sources)
  - c. Lack of coagulation and/or sedimentation (surface sources)
  - d. Need for removal of chem./rad contaminants
  
- Group 2: Maximum contaminant level violations
  - a. Bacteriological
  - b. Turbidity
  - c. Chemical/Radiological
    - i. Nitrates
    - ii. Chem/Rad in excess of “exemption” guidelines
    - iii. Chem/Rad in excess of MCL’s
  
- Group 3: Failure to monitor violation
  - a. Bacteriological
  - b. Turbidity
  - c. Chem/Rads
  
- Group 4: Plan & Specification Review – Siting
  - a. Failure to submit plans and specifications
  - b. Deviations from criteria in plans and specifications
  - c. Failure to construct according to plan and specifications

Actions (including certified letters prior to formal legal action) will be taken on all violators of the Colorado Primary Drinking Water Regulations. Preference (priority) will be given to those in higher level groups and higher risk violations within those groups.

As outlined in enforcement procedures, actions in response to violations escalate as violations repeat. This escalation is intended to avoid “persistent” violations and to insure appropriate reactions when they do occur.

Appropriate enforcement actions will be taken within the following timeframes:

Group I	30 days
Group II	30 days
Group III	30 days
Group IV	60 days
Persistent Violator	60-120 days
Enforcement Order	60-180 days