

OREGON HEALTH DIVISION

Safe Drinking Water Grant Application

FY 2000

**SAFE DRINKING WATER GRANT APPLICATION
FY 2000**

TABLE OF CONTENTS

	Page
Grant Application Forms	
State/EPA Agreement Signature Page	1
Preface	2
Terms and Conditions of the Agreement	3
Program Description and Work Plan	5
Compliance Assurance Agreement	13
Appendices	19
Appendix A - Compliance Strategy/SNC Definition	
Appendix B - Sanitary Survey Inspection Policy	
Appendix C - Reporting	
Appendix D - Unaddressed SNC listing	
Attachments	
1 - ORS 448.273	
2 - Drinking Water Advisory Committee Membership	
3 - Laboratory Interagency Agreement	
4 - List of Certified Laboratories	
5 - Organization Chart	
6 - County Grant assurances	
7 - MOU with Dept. of Agriculture	

FY 2000 Budget Information

Detailed budget documentation is attached. The details are for the amount of the requested PWSS grant that will be expended directly within the Oregon drinking water program plus lab certification (1 FTE at the public health laboratory and associated costs - \$104,883) and indirect costs (\$109,475).

Personnel: Positions funded by the requested grant are listed below (15.57 FTE):

Technical Position	Managerial Positions	Support Positions
Natural Resource Specialist 4 (0.57)	Program Manager F	Office Specialist 1 (0.5)
Env. Health Specialist 3 (0.5)	Supv. Pub. Health Engineer	Office Specialist 1
Env. Health Specialist 3	Program Manager B	Office Specialist 2
Env. Health Specialist 3		Administrative Specialist 1
Env. Health Specialist 3		
Env. Health Specialist 3		
Information Specialist 3		
Public Health Engineer 3		
Program Representative 2		
<i>Microbiologist - Lab Cert. (At Public Health Lab)</i>		

Fringe Benefits: (Other Personnel Costs - OPE): OPE costs are determined for individual components. These are estimated for the purpose of budget documentation as 38% of salary.

Travel: In-state travel costs are for field inspections and followups to compliance problems, and is estimated based on past history. Out-of-state travel costs are estimated for regional meetings and training directly associated with PWSS work.

Equipment: Costs are projected during this grant year for computer hardware acquisition to support wider access to the state water quality database by labs, counties, and public water suppliers.

Contracts: (Special Payments - S/P) These expenditures are for contracts with county health departments for drinking water program work described in the county assurances, attached.

Services and Supplies: Categorical listings are included in the budget details.

(Budget details table)

Use FY 99-01 Budget Worksheet for federal funds - Jayne

FY 2000
STATE/EPA AGREEMENT
STATE OF OREGON
DEPARTMENT OF HUMAN RESOURCES
AND
U.S. ENVIRONMENTAL PROTECTION AGENCY

The undersigned, for the Oregon Department of Human Resources, Health Division (OHD), and the U.S. Environmental Protection Agency, Region 10 (EPA), enter into this Agreement to assure safe drinking water to residents and visitors in the state.

The Agreement, known as the Oregon State/EPA Agreement (SEA), describes priorities, tasks, and resources which comprise the cooperative federal and state management of the drinking water program in Oregon during fiscal year 2000. This Agreement includes required work plans and the application for the EPA program grant to Oregon under provisions of the federal Safe Drinking Water Act. Attached to this State/EPA Agreement is a compliance assurance agreement that sets forth the respective compliance and enforcement responsibilities of each agency.

This agreement provides the public and agency program managers with a formal agreement which includes the budget details and the terms and conditions each agency agrees to follow. It also provides a clear overview of the current status of the Oregon Drinking Water Program.

This agreement covers the period of time between July 1, 1999, through June 30, 2000. The two agencies hereby agree to cooperatively work towards achieving drinking water goals and to comply with the provisions set forth herein.

FOR THE STATE OF OREGON:

Thomas W. Johnson
Assistant Administrator
Center for Environmental Health

Date:_____

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

Chuck Clarke
Regional Administrator
Environmental Protection Agency, Region 10

Date:_____

PREFACE

Agreements, including both "State/EPA Agreements" (SEAs) and "Performance Partnership Agreements (PPAs) , are developed annually between the U.S. Environmental Protection Agency - Region 10 and the State of Oregon Departments of Environmental Quality, Human Resources (Health Division), and Agriculture to cooperatively deliver environmental services in Oregon. If you are interested in information about any of the following programs, an excellent reference would be the appropriate SEA or PPA. Further information can be obtained by contacting either the EPA - Oregon Operations Office, 811 SW Sixth Avenue, Portland, Oregon 97204 or the listed state agency:

Department of Human Resources
Health Division
800 NE Oregon St.
Portland, Oregon 97232

- Drinking Water

Department of Environmental Quality
811 SW Sixth Avenue
Portland, Oregon 97204

- Air Quality
- Water Quality
- Hazardous Wastes
- Underground Storage
- Environmental Cleanup

Department of Agriculture
Agriculture Building
635 Capitol NE
Salem, Oregon 97310

- Pesticides

TERMS AND CONDITIONS

The Health Division is authorized to enter into an agreement with EPA to administer the Federal Safe Drinking Water Act. This agreement is subject to ORS 448.273, (Attachment 1).

I. Contact Persons

The State Drinking Water Program Coordinator, Oregon Operations Office, is the primary EPA official in Oregon with the authority to issue, interpret, and coordinate EPA program directives to the Health Division. He/she will work cooperatively with the Division to resolve problems. The Manager of Oregon's Drinking Water Program is the official contact person for the Division for purposes of this agreement.

II. Performance

Both the Division and EPA will commit their best efforts to assure that the terms, conditions and provisions contained or incorporated in this Agreement are fully complied with. To the extent that the Division does not fulfill provisions of this Agreement as related to the award of the grant being applied for herein, it is understood that EPA will not be precluded from imposing appropriate sanctions under 40 CFR Part 30, including withholding of funds, and termination or annulment of grants.

The tasks and expected results contained in this Agreement reflect information known and objectives identified at the time of its signing. Both agencies recognize that events outside the control of the parties to this Agreement (e.g., changes in authorizing legislation or levels of resources) may affect the ability of either party to fulfill the terms, conditions, and provisions of the Agreement. Therefore, both parties agree that a system for review and negotiated revision of plans is central to the Agreement to assure that priorities, needs and resources provide the basis for both agencies' operations. Both parties are committed to frequent communication regarding the provisions of this Agreement.

III. Reporting

During the term of this Agreement, compliance reports shall be prepared as per Appendix C.

IV. Evaluation

During the term of this Agreement, EPA will conduct informal on-site quarterly reviews of Division activities to review progress on enforcement activities contained in this Agreement. The scope of these reviews will include discussions of the current compliance status of public water systems identified as significant noncompliers (SNC's). The definition of significant noncompliers is contained in

Appendix A. These reviews will be held within 30 days following the end of each quarter per Section IV of the Compliance Assurance Agreement. The Division will designate significant noncompliers that were not acted on, if any, due to time or budget constraints. EPA will provide an oral evaluation at the end of the review session and will provide a written report to the Division within one month of the review. EPA will conduct a mid-year review approximately 6 months after the beginning of the grant period. This review will be a comprehensive review of all aspects of the SEA and will be followed by a written evaluation. A final summary review will be held within 30 days after the end of this Agreement and a written evaluation will be provided by EPA to the Division.

V. Fiscal Reporting

Health Division and EPA agree that annual budget and fiscal reports for work planned under the provisions of this Agreement shall be by category (personal services, services and supplies, and capital outlay). The Program Description outlines how these resources will be used to address workload.

VI. Contract Period

To adjust the grant period to Oregon's fiscal year, this Agreement covers the period of time between July 1, 1999, through June 30, 2000.

PROGRAM DESCRIPTION AND WORK PLAN

Oregon Drinking Water Program

Fiscal Year 2000

The Drinking Water Advisory Committee reviewed and revised the mission statement, goals, and objectives of the drinking water program late in 1993, and published them in early 1994. The mission of the program is to "assure all Oregonians safe drinking water". A detailed description of goals and objectives is given on the next page. There are five major goals, not prioritized in relation to each other:

- < **Reduce or prevent contamination of public water supplies.**
- < **Improve water system operation and management through training and technical assistance programs for water system personnel including operators, managers, engineers, and lab staff.**
- < **Improve the adequacy, reliability, and viability of public water systems.**
- < **Increase public knowledge, participation, and support for safe drinking water issues.**
- < **Conduct an efficient and effective regulatory program for public water systems.**

Under each goal are listed specific objectives which are each categorized as primary or secondary in priority. Projected overall program funding for FY 2000 is believed to be sufficient to complete the primary priority objectives. Secondary priority objectives will be addressed as resources allow. The EPA program grant is focused on the first and last goals above; state funds and State Revolving Loan Funds are focused on the first four goals.

For FY 2000, the state program will conduct the following regulatory program work as available resources allow, including the Primacy grant, the associated state match, and applicable Drinking Water State Revolving Loan Fund state program management set-aside. The work is arranged in priority order of public health impact:

FY 2000 State-EPA agreement program priorities:

- < Respond to drinking water emergencies and reports of waterborne disease,
- < Certify laboratories to perform water quality tests on public water systems,
- < Conduct surveillance of public drinking water quality through receiving, processing, and evaluating laboratory test results and public water system operation reports,
- < Investigate water systems whose lab results and/or water system operation reports indicate a potential risk to health,
- < Assure complete and accurate identification and reporting of public water system compliance status,
- < Enforce current Maximum Contaminant Levels, Action Levels, Treatment Technique requirements, and monitoring requirements for Community and Nontransient Noncommunity Significant Noncompliers (SNCs)¹,
- < Communicate safe drinking water requirements and information to public water suppliers,
- < Adopt and implement new regulations required under the Safe Drinking Water Act,
- < Implement new authorities from the 1999 Legislature as required under the Safe Drinking Water Act (Administrative penalties, PWS definition),
- < Participate in development of national drinking water regulations, guidelines, and policies,
- < Provide opportunities for constituent participation in state program design, policy development, and regulation adoption,
- < Conduct surveillance of public water systems through on-site inspections,
- < Review plans for public water system modifications and ensure compliance with construction standards,
- < Certify and train public water system operators,
- < Maintain and improve the knowledge, skills, and abilities of drinking water program staff,
- < Maintain data management systems while participating in development of the national data management system and its implementation in Oregon,
- < Enforce current Maximum Contaminant Levels and Treatment Technique requirements for Transient Noncommunity Significant Noncompliers (SNCs)¹,
- < Develop FY 2001 State/EPA Agreement.
- < Enforce current Maximum Contaminant Levels, Action Levels, and Treatment Technique requirements for non-SNCs,
- < Enforce current monitoring requirements for Transient Noncommunity Significant Noncompliers (SNCs)¹:
- < Increase public awareness of safe drinking water issues,
- < Enforce current monitoring and reporting requirements for non-SNCs,
- < Identify potential groundwater quality management areas.

¹ Significant Noncompliers include those identified during the grant period and those identified as “Unaddressed” at the beginning of the grant period. The listing of “Unaddressed SNCs” is attached as Appendix D.

Program Description

The Division's Drinking Water Program is designed to meet the needs of the public water systems in Oregon and to comply with the requirements of the Oregon Drinking Water Quality Act and the Federal Safe Drinking Water Act. As of July 1, 1999, there will be 31 positions (29.75 FTE) in the program. Of this total, a level of effort of 14.57 FTE is funded by the primacy grant and the remainder is funded through state funds or revolving loan fund set-asides. Primacy grant funds are also used for an additional laboratory certification position at the Public Health Laboratory, lab certification contracts with the Department of Environmental Quality and Department of Agriculture, and support of county health department contracts.

Public participation is encouraged through workshops, hearings, the Drinking Water Advisory Committee (DWAC), publications and regular meetings with water industry and interest groups. The DWAC was appointed by the Administrator of the Health Division in 1981 to receive input and ideas on policy issues from a variety of organizations having an interest in Oregon's drinking water. A list of organizations and current members is in Attachment 2. Public information activities center on workshops, public hearings, media contacts, pamphlets, fact sheets, and a quarterly newsletter.

The Division also contracts with counties to carry out the drinking water program for small community and noncommunity water systems in their area (Attachment # 6). County contracts are funded from the Primacy grant and the Drinking Water State Revolving Loan Fund state program management set-aside. The DWSRF set-aside funding is described in the applicable Oregon Intended Use Plan. A Memorandum of Agreement has been developed between the Health Division and the Department of Agriculture under which the Department will implement drinking water standards for facilities it licenses and which qualify as public water systems. (Attachment # 7).

In Oregon, water suppliers must contract with private laboratories for analytical work to satisfy monitoring requirements. State laboratory facilities are used for special studies, and for disease outbreak and other investigations. The Oregon Public Health Laboratory (OPHL) has the facilities and the capability to perform microbiological analyses. The Division has interagency agreements with the Department of Agriculture for pesticide analyses, and with DEQ for analyses of inorganic chemicals, VOCs and THMs. (Attachment # 3). These interagency agreements describe the working and funding arrangements between the respective agencies to certify commercial laboratories to analyze drinking water compliance samples from public water systems. The program is under the direction of the Division's Public Health Laboratory. A current list of certified commercial labs is included as Attachment 4.

The Drinking Water Section is organized into four work units, reporting to the Program Manager - The Monitoring and Compliance unit, Technical Services units (East and West Regions), and the Protection and Development unit as shown on the organization chart in

Attachment 5. The Monitoring and Compliance Unit is responsible for management of the public water supply database, generation of compliance reports to state and county program staff and to EPA, coordination and tracking of formal enforcement actions, and coordination of interagency contracts, laboratory certification, and the operator certification program.

The Technical Services units carry out individual contacts with water systems designed to improve compliance with drinking water standards. These include: investigation of water quality problems, follow-up on compliance schedules, sanitary surveys, plan review, response to emergencies or disease reports, and training for small system operators at locations around the state.

The Protection and Development unit has two major responsibilities; development and implementation of new safe drinking water requirements, and implementation of the Oregon Safe Drinking Water Revolving Loan Fund and associated programs.

Work Plan

The following Workplan for FY 2000 describes the specific activities to be accomplished under the Primacy Grant taking into account state program priorities and the required minimum program elements to maintain Primacy. Available resources from the primacy grant, required state matching funds, and revolving loan fund state program management set-aside will be committed to completing tasks identified in priority order as resources allow.

Commitment	Target FY 2000	Year to Date
Program Activities:		
1. Respond to drinking water emergencies and reports of waterborne disease	FY 2000	
2. Certify laboratories to perform water quality tests on public water systems	72 Commer- cial Labs and In-house labs	

Commitment	Target FY 2000	Year to Date
Program Activities:		
3. Conduct surveillance of public drinking water quality through receiving, processing, and evaluating laboratory test results and public water system operation reports: <ul style="list-style-type: none"> -Coliform tests -Surface water treatment reports (monthly) -Nitrate test results -Lead and copper test reports -Corrosion control parameter reports (monthly) -Chemical/radiological reports 	64,000 2,650 3,400 480 2,100 4,000	
4. Investigate water systems whose test results and/or operation reports indicate a potential risk to health (“alerts”): <ul style="list-style-type: none"> -Coliform detections -Surface water treatment requirement failures -Nitrate detections -Lead/copper action level exceedences -Corrosion control treatment requirement failures -Other chemical tests/detection alerts 	1,800 187 180 19 14 600	
5. Assure complete and accurate identification and reporting of public water system compliance status: <ul style="list-style-type: none"> -Identify MCL, treatment requirement, and monitoring violations and report to SDWIS-FED quarterly -Prepare and distribute 1999 Oregon Annual Compliance Report -Prepare and distribute 1999 Oregon Drinking Water Benchmark Report -Prepare individual compliance status reports on public water systems on request 	FY 2000 7/1/00 7/1/00 FY 2000	
6.-Enforce current Maximum Contaminant Levels, action levels, treatment technique, monitoring requirements for Community and Nontransient Noncommunity Significant Noncompliers ¹ : <ul style="list-style-type: none"> -Coliform -Surface water treatment -Nitrite/Nitrate -Chemical/Radiological -Lead/copper ¹ Includes “Unaddressed SNCs” - Appendix D	18 39 3 3 181	

Commitment	Target FY 2000	Year to Date
Program Activities:		
<p>7. Communicate safe drinking water requirements and information to public water suppliers</p> <ul style="list-style-type: none"> -PIPELINE newsletter -Special edition PIPELINES (DW standards, 1999 ACR) -Targeted mailings on specific requirements -Presentations at training sessions and organizational meetings -Through an Internet Webpage and database access 	<p>Quarterly FY2000 FY2000 FY2000 FY2000</p>	
<p>8. Adopt, implement, and apply for Primacy for new regulations under the Safe Drinking Water Act. Complete or begin this process for:</p> <ul style="list-style-type: none"> -Consumer Confidence Reports - (adoption, 7/15/99) -Variance and Exemption rule (adoption, 12/31/99) -Lead and Copper (revisions) - (adoption, Spring 2000) -Disinfectants and Disinfection By-products (Stage 1) - (adoption, 9/16/00) -Interim Enhanced Surface Water Treatment - (adoption, 9/16/00) -Unregulated Contaminant Monitoring (adoption, 8/01) 	<p>7/15/99 12/31/99 5/00 FY2000 FY2000 FY2000</p>	
<p>9. Implement new legislative authorities in rules as required under the Safe Drinking Water Act</p> <ul style="list-style-type: none"> -Revise administrative penalty provisions (adoption. 12/31/99) -Revise public water system definition (adoption, 12/31/99) -Revise operator certification (adoption, 12/31/99) 	<p>12/31/99 12/31/99 12/31/99</p>	
<p>10. Participate in development of national drinking water regulations, guidelines, and policies</p> <ul style="list-style-type: none"> - Workgroups (EPA, ASDWA, AWWA) - Review and comment on proposed EPA rules 	<p>FY 2000</p>	
<p>11. Provide opportunities for constituent participation in state program design and policy development through the Drinking Water Advisory Committee (meetings monthly to quarterly).</p>	<p>FY 2000</p>	

Commitment	Target FY 2000	Year to Date
Program Activities:		
12. Conduct surveillance of public water systems through on-site inspections, and corrections to eliminate deficiencies <ul style="list-style-type: none"> -Sanitary survey inspections, 5-year schedule -Filtration plant surveillance inspections (quarterly, 185 plants) -Comprehensive performance evaluations of 185 filtration plants), 5-year schedule -Annual review of water systems with filtration exception 	532 740 35 4	
13. Review plans for public water system modifications and ensure compliance with construction standards	350	
14. Certify and train public water system operators <ul style="list-style-type: none"> -Certify operators (initial certification and renewal) -Implement operator certification/continuing education at small community systems (< 150 connections) with groundwater sources and nontransient noncommunity systems 	1550 FY 2000	
15. Maintain and improve the knowledge, skills, and abilities of drinking water program staff <ul style="list-style-type: none"> -EPA trainings -AWWA training -ASDWA training -Other training as available 	FY 2000	
16. Maintain data management systems while participating in development of national data management systems and their possible implementation in Oregon <ul style="list-style-type: none"> -Maintain SWS2 system -Prepare SDWIS-State implementation plan 	FY 2000 FY 2000	
17. Enforce current Maximum Contaminant Levels and Treatment Technique, requirements for Transient Noncommunity Significant Noncompliers ¹ : <ul style="list-style-type: none"> -Coliform -Surface water treatment -Nitrite/Nitrate ¹ Includes “Unaddressed SNCs” - Appendix D	10 7 1	
18. Develop FY 2001 SEA and workplan	June 2000	

Commitment	Target FY 2000	Year to Date
Program Activities:		
19. Enforce current Maximum Contaminant Levels, action levels, and treatment technique requirements for non-SNCs: <ul style="list-style-type: none"> -Coliform -Surface water treatment -Nitrite/Nitrate -Chemical/Radiological -Lead/copper 	150 125 8 6 50	
20. Enforce current monitoring requirements for Transient Noncommunity Significant Noncompliers ¹ : <ul style="list-style-type: none"> -Coliform -Surface water treatment ¹ Includes “Unaddressed SNCs” - Appendix D	92 7	
21. Increase public awareness of safe drinking water issues <ul style="list-style-type: none"> - Internet Web Page - SWS2 database access via internet - data sharing with environmental agencies 	FY 2000	
22. Enforce current monitoring requirements for non-SNCs <ul style="list-style-type: none"> -Coliform -Surface water treatment -Nitrite/Nitrate -Chemical/Radiological -Lead/copper 	1040 27 558 100 100	
23. Identify potential groundwater quality management areas <ul style="list-style-type: none"> -Receive and process on-site individual well water quality test results from real estate transactions -Advise owners of wells with coliform or nitrate contamination of recommended health protection actions -Report public water system and individual well water quality data to the DEQ groundwater program -Support DEQ efforts in designated groundwater management areas 	FY 2000	

* **Significant Noncomplying System (SNC)** - defined in Appendix A of the Compliance Assurance Agreement.

**Compliance Assurance Agreement
between the
U.S. Environmental Protection Agency
and the
Oregon Health Division**

I. Purpose of Agreement

Achieving and maintaining a high level of compliance with environmental laws and regulations is one of the most important goals of federal and state environmental agencies, and is an essential prerequisite to realizing the benefits of regulatory programs. While the Oregon Health Division (OHD) has primary responsibility for assuring water system compliance and initiating enforcement actions in the State of Oregon, as authorized by ORS Chapter 448 and by the Environmental Protection Agency (EPA) under the provisions of Section 1413 of the Safe Drinking Water Act (SDWA), EPA retains responsibility for ensuring fair and effective enforcement of federal requirements.

The purpose of this Compliance Assurance Agreement (CAA) between EPA and OHD is to clearly establish respective agency roles in maintaining an effective compliance and enforcement program. This document includes a description of the way the state conducts enforcement efforts (i.e. the state compliance strategy), a copy of the state sanitary inspection policy, state reporting requirements, clear oversight criteria for EPA to assess the state's compliance and enforcement program, and clear criteria for direct EPA enforcement.

II. State Compliance Strategy

The State of Oregon assumed primacy from EPA for the Drinking Water Program in 1986. Since that time, the Division has been working with the public water systems to ensure compliance with state and federal rules and regulations. The state compliance strategy (see Appendix A) describes the procedures and time-frames that the Division follows to bring water systems with violations into compliance. This strategy is hereafter considered part of the Compliance Assurance Agreement.

III. State Sanitary Hazard Inspection Policy

An effective field presence is a vital component of a comprehensive state drinking water program. Sanitary surveys are conducted to identify and promote correction of facility deficiencies and potential health hazards related to drinking water contaminants. The attached policy (see Appendix B) describes the sanitary survey program as it is conducted by OHD. While the state goal is to conduct a sanitary hazard inspection every 5 years for each water system, resource constraints are likely to limit the number of inspections conducted.

IV. Parameters of Agreement/Oversight

1. This agreement is entered into by the Administrator of the Oregon Health Division (hereafter "the OHD"), which is the lead agency for the state program and the Regional Administrator, EPA, Region 10 (hereafter "EPA").
2. Each of the parties to this agreement is responsible for ensuring that its obligations under the SDWA are met. OHD and the EPA agree to maintain a high level of cooperation and coordination between program staffs to assure successful and effective administration of the authorized program within Oregon.
3. The EPA will assess the OHD's administration and enforcement of the state program on a continuing basis for consistency with the SDWA, with this agreement, and with all applicable federal requirements and policies. This program evaluation will generally be accomplished by an EPA review of the information submitted by the OHD in accordance with the agreement and will be discussed at the quarterly meeting.
4. Quarterly meetings between the OHD and EPA staffs will be the primary and predominant medium for discussion of (1) program progress, (2) state conformance with the compliance strategy (including timeliness of enforcement activities), and (3) current enforcement actions, and identification of those instances where enforcement action may be appropriate. The quarterly evaluation meetings will take place within one month prior to the due date in paragraph V below, and be arranged by EPA.
5. Prior to each of the quarterly meetings, EPA will forward a proposed agenda together with a list of those specific instances of noncompliance which EPA staff considers most significant and wishes to discuss at the meeting.
6. The state will advise EPA of all appropriate enforcement actions by sending copies of these actions to EPA when issued.
7. EPA's primary role in enforcement and compliance monitoring shall be that of oversight as described above. However, this document does not affect or inhibit EPA's independent authority to bring a civil action or issue an administrative order pursuant to Section 1414 of the SDWA.
8. To ensure the productive use of limited state and federal resources and an effective partnership in achieving compliance, EPA shall maintain a policy of taking enforcement action within resource availability against violators upon OHD's request and of providing the state copies of press and/or public information releases, and advance notice of any EPA enforcement activities. Significant noncompliers (SNC) for which timely and appropriate state actions are not taken (as described later in this document) become federal enforcement candidates and are subject to notification under Section 1414 of the SDWA.

9. EPA and OHD files are mutually available to both parties for inspection and copying.

V. State Reporting

A strong and well managed compliance and enforcement program needs reliable performance information on which to judge success and identify water systems that require attention.

State quarterly reporting requirements are shown in Appendix C. OHD will report accurate PWS inventory, violation and enforcement data (via SDWIS-FED) to the Region within six weeks after the end of each quarter.

EPA and OHD shall identify SNC's (see definition in Section VI below) within 6 weeks after SDWIS-FED data is submitted by OHD. OHD shall provide to the Region quarterly follow-up summary and exceptions reports for those SNC's as follows:

<u>Compliance Period</u>	<u>Due Date</u>
01 (Oct. - Dec.)	Sept. 15
02 (Jan. - March)	Dec. 15
03 (April - June)	March 15
04 (July - Sept.)	June 15

VI. Significant Noncompliers

A significant noncomplier (SNC) is a public water system which meets the definitions in Appendix A.

VII. Timely and Appropriate State Enforcement Actions

All public water systems in violation may be subject to enforcement action. Within 8 months after the end of the compliance period, OHD must assure that every SNC as defined in VI herein, will either: (1) be returned to compliance, (2) be operating under and adhering to an enforceable compliance schedule, or a bilateral compliance agreement, OR (3) have a formal enforcement action taken against it to elicit compliance. Any SNCs which OHD can not address due to budget limitations or legal authority should be referred to EPA as early as possible after identification.

Specific formal actions that are considered appropriate are: (1) The issuance of a formal administrative order or compliance order, (2) the referral of a civil judicial case to the State Attorney General, (3) the filing of a criminal judicial case in an appropriate State court, and (4) the finalization of a bilateral, written, compliance agreement signed by both parties which includes a compliance schedule. Actions against other violations will be conducted in accordance with the state's compliance strategy in Appendix A as resources allow.

Significant noncompliers for which timely and appropriate action have not been taken become federal enforcement candidates and EPA may take enforcement action according to Section IX below.

VIII. Civil Penalties

Civil penalties and other sanctions play an important role in an effective enforcement program. Civil penalties may be used, for example, when a system owner refuses to make necessary water system improvements or when the water system owner gains financially through noncompliance.

IX. Criteria for Direct Federal Enforcement

Because OHD has primary enforcement responsibility, EPA will prioritize its enforcement actions as follows:

1. OHD requests EPA action;
2. OHD enforcement not initiated within 30 days following the issuance of an EPA Notice of Violation (NOV);
3. OHD enforcement response is not timely or appropriate;
4. OHD enforcement response is not consistent with the Compliance Strategy;
5. Violation of OHD or EPA order or consent decree by the water system;
6. Emergency situation pursuant to section 1431 of the SDWA;
7. By prior agreement between OHD and EPA.

In deciding whether to take direct enforcement in the above types of cases, EPA will consider the following factors:

1. Cases specifically designated as nationally significant;
2. Significant public health damage or risk involved;
3. Significant economic benefit gained by violator;
4. Repeat patterns of violations.
5. EPA resources available.

OHD may request EPA to take enforcement action, e.g., where state resources are inadequate to address the SNC in a timely and appropriate manner. EPA will follow its

priorities in meeting any such requests for assistance considering the factors identified above.

If OHD's enforcement response to a SNC attention is not timely or appropriate, EPA will discuss with OHD the status of its actions. If discussions suggest that OHD is close to resolving the violation or that further deferral is otherwise appropriate, EPA will continue to defer to enable OHD to complete its action. If EPA determines that further deferral is not justified, it will proceed with its own actions at this point. EPA will encourage continued OHD participation even where EPA takes the lead.

EPA will take unilateral enforcement action against a water system only after first conferring with the appropriate OHD staff and providing OHD with written (except in emergencies) notification. In the case of an emergency, oral notice will be given and action may be taken pursuant to section 1431 of the SDWA.

X. Federal Facilities

OHD has primary responsibility for ensuring federal facility compliance. However, EPA will separately review federal facility compliance data provided by OHD and will initiate appropriate enforcement response as needed.

OHD will identify in the annual work plan federal facilities requiring water system improvements as EPA, through the federal A-106 planning process, is provided with the opportunity to review the list of proposed federal projects and recommend funding and/or schedule changes on an annual basis.

XI. Disclaimer Statement

Nothing in this agreement shall be construed to limit or modify the authorities granted to either EPA or OHD by law, or shall be construed to constitute a valid defense by regulated parties in violation of any state or federal environmental statute, regulation, or permit.

XII. Dispute Resolution

Where any conflict or disagreement occurs, such issues shall be resolved by negotiation between EPA and OHD staff. If the issue cannot be resolved, the issue shall be raised to appropriate levels of OHD and EPA management.

XIII. Public Information

Both EPA and OHD are committed to publicly account for their compliance and enforcement programs through a variety of methods. Public information releases are one of the basic methods of conveying reports concerning enforcement activity for all media, and may enhance the deterrent potential of enforcement actions.

EPA and OHD agree to review opportunities for joint releases on enforcement actions and public accounting of both state and federal accomplishments in compliance and enforcement. To the extent possible, public information reports generated by one agency will acknowledge and give appropriate credit to relevant actions and accomplishments in enforcement/compliance by the other agency.

XIV. Term of Agreement

This compliance assurance agreement will remain in effect until terminated or amended upon agreement by all parties.

FOR THE STATE OF OREGON

Thomas W. Johnson
Assistant Administrator
Center for Environmental Health

Date:_____

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Chuck Clarke
Regional Administrator
Environmental Protection Agency, Region 10

Date:_____

APPENDICES

APPENDIX A COMPLIANCE STRATEGY

Introduction

The Oregon Health Division shall take timely and appropriate action (as discussed below) to respond to all violations of state drinking water regulations in accordance with the state's primacy responsibility. Described here are the legal tools available to the Division for enforcement of drinking water regulations, the system by which violations of regulations will be prioritized for action, and the action procedures for responding to violations.

The Division conducts enforcement to achieve compliance with drinking water regulations in two major ways, voluntarily and through legal action. Described here is the Division's process to obtain compliance in both of these ways. It is the Division's policy to initiate enforcement action when 1) there is an immediate and/or urgent hazard to the public's health and safety; or 2) after technical assistance has failed to achieve the necessary compliance within a reasonable period of time. The Division recognizes that there are water systems for which legal action will be required to achieve compliance. Although the Division will make substantial efforts to achieve voluntary compliance in each case, legal action will be pursued where necessary, within available budget resources.

A. Enforcement Mechanisms

The Division has several formal remedies available for enforcement of drinking water regulations: permits, administrative orders, civil penalties, and other legal action when the water system is a health hazard. The Division may prescribe immediate compliance by Civil Penalty or Direct Court Action or may establish compliance schedules by Administrative Order or Permits.

1. Administrative Orders will be used in most cases when a water system is unable to comply with Maximum Contaminant Levels. This process is begun by issuing a Notice of Violation (NOV) from the Division administrator to the water supplier when the water system is being operated in violation of the rules. The NOV contains a citation of the rule allegedly violated, the manner and extent of the violation, and a statement of the party's right to hearing. The NOV is delivered in person or by registered or certified mail.

The NOV is accompanied by an Order, requiring remedial action which will achieve compliance with the rule if taken within a specified time limit. The request for hearing must be made within 10 days or the Order becomes final. The procedures for the hearing are controlled by the Oregon Administrative Procedures Act. The Order is either affirmed or reversed based on the hearing. If affirmed, the Order stands and compliance must be achieved within the specified time limit. The decision may be appealed directly to the Court of Appeals. Violation of the order is punishable as a Class A misdemeanor which can carry a fine of \$25 - \$500 or imprisonment for up to 6 months.

2. Permits will be issued when a water system does not comply with maximum contaminant levels and because of economic or other compelling factors will be unable to install the necessary water treatment facilities for an extended period of time. The permit will prescribe a compliance schedule, including interim measures to eliminate the risk to health, and sets a specific time to install treatment equipment or meet the maximum contaminant levels. Before the permit is issued, the Division must give public notice of its intent and provide an opportunity for a public hearing. The water supplier must notify its customers at least once every three months during the term of the permit. Failure to meet the condition of a permit may result in an Order to cease operation of the water system. Permits will be issued in conformance with the 1986 SDWA Amendments. Permits issued by the Division carry the same weight as exemptions issued under the federal Safe Drinking Water Act.
3. The Division is also authorized to assess civil penalties against water suppliers for violation of the Act or rules. These penalties can be up to \$500 for each day of violation. The Division must provide five days advance notice of proposed penalty in writing to the violator. The violator then has 20 days to request a hearing before the Division. If a hearing is requested, the form and procedure is governed by the Administrative Procedures Act. If this Order becomes final, payment of the penalty must be made within 10 days, or the Order becomes a Judgement which can be filed in court. All monies collected under this procedure are paid into the state general fund. This procedure is most applicable to cases of persistent non-reporting, failure to submit construction plans, failure to properly operate or maintain a water system, or failure to provide public notification.
4. When a water system presents a public health hazard requiring immediate action to protect the public health or welfare, the Division may request the county district attorney to institute an action. This action may be started without any prior hearing, Order, or other administrative procedure. The action may request a mandatory injunction for the water supplier to stop operation or make improvements or correction to remove the health hazard. If the water supplier does not comply with this order of the court, the court may appoint a special master to operate the system, who can collect revenue from customers or directly from the supplier, and make necessary improvements. The court may also require sale of the water system to a responsible party. This is the most severe type of legal action available to the Division. It is likely to be used only in the most extreme situations where a water system presents a very high probability of transmitting disease.
5. Where appropriate, written bilateral compliance agreements, signed by both parties may be negotiated. Such an agreement will contain detailed commitments by the violator and interim milestones which the system is expected to meet and

accomplish by certain dates. These may be used where the violator has shown good faith in negotiations and an effort to comply in the past.

B. Violation Response Strategy

Procedures for responding to drinking water regulation violations are described here. Procedures are outlined with escalating involvement and action by Division staff for various violations.

Appropriate documentation of compliance activities will be carried out by Division, Department of Agriculture and County staff. This documentation may be in the form of letters, memos to the file, or sanitary hazard inspection reports as deemed appropriate should formal enforcement become necessary. When compliance is achieved, documentation will be provided in Division files outlining actions taken by the supplier and reasoning used by the Division to conclude that additional action is not necessary.

Enforcement actions are carried out primarily by Division staff. County health departments participating in the water program conduct enforcement actions for those noncommunity water systems serving licensed facilities such as restaurants, motels, RV parks, and organizational camps. The enforcement procedure for these facilities involves operating license revocation. The Department of Agriculture will take similar action against its licensed facilities. All other enforcement is carried out by the Division.

The following summaries will serve as a model for preparing escalating responses to violations of State and Federal monitoring/reporting and maximum contaminant level regulations.

If a situation occurs such that there is an imminent and substantial endangerment to human health, informal responses may be skipped or greatly accelerated.

Monitoring Violations

Each monitoring violation will be individually recognized and responded to after the appropriate monitoring period is over. Single instances of failure to report laboratory analyses of water samples of treatment performance reports shall be responded to in writing with a form letter or postcard directing the water suppliers to either (1) submit the report, or (2) if no report is available, conduct public notification as appropriate.

Maximum Contaminant Level or Treatment Technique Violations

Violations of MCLs or treatment techniques will be individually recognized and responded to. Single laboratory analysis received which suggest potential MCL violations are "flagged" automatically by the data management system. Daily alert reports of chemical data exceeding MCL levels or positive coliform detections are

generated and routed to state or county field staff as appropriate. Field staff are responsible for contacting the water supplier to assure that resampling is undertaken and any immediate corrective action needed is taken as appropriate. After confirmation of original test results, written notice is sent to the water supplier to assure that the contamination is corrected and the public is notified. Violations of treatment techniques are recognized from monthly reports submitted by water systems and these are “flagged” by the data management system. These flags generate alert reports that are reviewed and responded to by state or county field staff as appropriate to assure that corrective action is taken and the public is notified.

Significant Noncompliers (SNC)

A SNC is a community, nontransient noncommunity, or noncommunity water system which meets any of the criteria in the attached table. All SNC's not achieving compliance within 8 months of the end of the compliance period will be subject to one of the following actions:

- Bilateral compliance agreement (signed by both parties; containing interim milestones)
- Administrative Order or Permit
- Civil Penalty
- Direct Court Action

Once an action has been taken and a system is on a schedule to come into compliance, the Division will monitor the system's progress. Violations of schedules will be documented as well as the response to the violations. If a milestone or a requirement of a schedule, contained in a Permit or Order is missed, the Division will investigate the situation to determine why the requirement was missed. The results of this investigation will be documented in the file and used as a basis for determining the response to the violation. Such a determination, and the response, will be documented in the case file.

SIGNIFICANT NONCOMPLIANT (SNC) DEFINITION: A SNC is any community, nontransient noncommunity or transient noncommunity water system which meets the criteria listed below:

1. Microbiological:
 - (A) Systems on monthly monitoring:
 - È Four or more violations of the Maximum Contaminant Level (MCL) or water treatment performance standards during any 12 consecutive months.
 - È Six or more combined "major"* violations of the monitoring/reporting requirements and/or violations of the MCL or water treatment performance standards during any 12 consecutive months.
 - È Ten or more combined monitoring/reporting ("major" or "minor"**) and/or MCL violations or water treatment performance violations during any 12 consecutive months.
 - (B) Systems on quarterly monitoring:
 - È Three or more combined "major" violations of microbiological monitoring/reporting requirements, MCLs, or water treatment performance standards during any four consecutive quarters.
 - (C) Systems that must install treatment for surface water sources or groundwater sources under the direct influence of surface water.
2. Chemical/Radiological:
 - (A) Exceeds the MCL identified for any contaminant.
 - (B) Fails to monitor for or report the results of nitrate or THMs within six months after the date due.
 - (C) Fails to meet the lead and/or copper action level.
 - (D) Fails to monitor or report chemical/radiological data (other than nitrate and THMs) within one year after the date due.
4. Public Notification:
 - (A) Fails to provide notice as required to the consumers of the violations which result in the system becoming a SNC.

Definition of Major/Minor Monitoring/Reporting Violations

** Major Monitoring or Reporting (M&R) Violation*

Monitoring or reporting violations where a system fails to take any routine samples for a particular contaminant or report any treatment performance data during a compliance period, or fails to take any repeat samples following a coliform positive routine or where the system has failed to report the results of analyses to the Division for a compliance period. (If the Division or its agent receives no monitoring report or receives a report indicating that no monitoring was conducted, the M & R violation shall be classified as major.)

*** Minor Monitoring or Reporting Violation*

Monitoring or reporting violations where a system takes some but not all of the routine samples for a particular contaminant or collects partial treatment performance data or insufficient numbers of repeat samples following a

coliform positive routine sample during a compliance period, and reports those partial results to the Division or its agent.

Appendix B

Sanitary Survey Inspection Procedures Documentation of Sanitary Surveys and Water System Contacts

A sanitary survey is a comprehensive on-site evaluation of a public water system carried out to identify actual and potential sanitary hazards and correct them before they adversely affect the quality of drinking water provided to the public. The scope of the sanitary survey includes the source of water supply, the water intake, treatment system, storage and distribution facilities, operation and maintenance, water system records, and drinking water regulation compliance status related to coliform bacteria. Sanitary surveys should be conducted no less than every five years for each water system. Sanitary survey procedures are summarized below:

- Contact owner/operator to set up appointment and explain information needed to complete the sanitary survey.
- Review water system file information, water quality history, and data base inventory information
- Conduct on-site review:
 - Complete sanitary survey and inventory information forms
 - Collect coliform sample(s)
 - Verbally inform the owner and/or operator of deficiencies and recommendations
- Complete office work:
 - Verify and complete sanitary survey report and inventory report
 - Develop cover letter with requirements and recommendations to correct deficiencies
 - Mail cover letter, sanitary survey report, inventory information form, and coliform sample result to water system, copy to the Division files

Documentation of Sanitary Surveys and Water System Contacts

Adequate documentation of sanitary surveys and other water system contacts is needed to maintain accurate and current public water system inventory information, to support formal enforcement actions, to describe current regulatory status of water systems, to evaluate the performance and effectiveness of the drinking water program, and to guide and plan program activities.

Sanitary survey inspections shall be documented using forms supplied by the Division and a cover letter to the water system owner/operator. Special purpose inspections shall be documented by activity report form, letter, or memorandum. Field and office contacts shall be documented by activity report form, memorandum, or by copy of letters to the water system owner/operator. Emergency response activities shall be documented using the activity report or emergency response form.

Attachments:

- Activity Report Form
- Emergency Response Form
- Sanitary Survey Inspection Forms and Resource List

State Reporting and Record Keeping

Reporting

Microbiological MCL and Turbidity Performance Standard Violations / Quarterly

List water system identification number and period of non-compliance (month or quarter depending on time period used to determine non-compliance) for both community systems and non-community systems.

Microbiological and Turbidity Monitoring Violations / Quarterly

List water system identification number and period of non-compliance (month or quarter) for both community and non-community systems.

Total Trihalomethane Monitoring Violations / Quarterly

List water system identification number and period of non-compliance.

Inorganic, Organic (including THM, SOC and VOC), and Radiochemical MCL Violations / Quarterly

List water system identification number and analytical value for confirmed MCL violations.

Inorganic, Organic, (including SOC and VOC) and Radiochemical Monitoring Violations / Annually

List water system identification number for monitoring violations and date system was last sampled.

Follow-up Actions for Violations / Quarterly

Provide follow-up enforcement actions for water systems that are significant non-compliers and for water systems that have been identified by EPA and the Division as requiring special attention.

Results of monitoring unregulated contaminants / Annually

Results of all 90th percentile lead and copper levels / Quarterly

Records of water systems required to complete corrosion control studies, date of evaluations, optimal corrosion control treatment designations and dates of determinations, completion of treatment installations, water quality parameter designations and dates of determinations / Quarterly

Records of water systems required to install source water treatment for lead and/or copper and dates of determinations, completion of source water treatment installations, and maximum permissible source water lead and copper levels / Quarterly

Copies of all appropriate enforcement actions shall be sent to EPA when issued.

Record Keeping

The Health Division shall maintain records of tests, measurements, analyses, decisions, and determinations for each public water system for the time period required to maintain State primary enforcement responsibility.

The Health Division shall maintain current inventory information and retain records of public water systems for the time period required to maintain State primary enforcement responsibility.

The Health Division shall retain a file for each public water system for the time period required to maintain State primary enforcement responsibility.

Each file shall include sanitary surveys, State approvals, enforcement actions, the most recent vulnerability determination, current monitoring requirements and frequency decisions, the most recent asbestos monitoring determination, records of annual certifications

demonstrating compliance with the treatment techniques for acrylamide and epichlorohydrin, and the State determination for the control of lead and copper. All of this information shall be accompanied by supporting data, monitoring results, and explanations in the file.

REV 1/9

Appendix D Unaddressed SNCs

ATTACHMENTS