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SEP 19 2018

Ref: 8ENF-W-SDW

Marie E. Owens, Director
Utah Division of Drinking Water
Utah Department of Environmental Quality (UT DEQ)
P.O. Box 144830
Salt Lake City, Utah 84114-4830

RE: Draft Utah FY2017 Uniform Enforcement Oversight System (UEOS) Review

Dear Ms. Owens:

Enclosed is the EPA's draft Fiscal Year 2017 (FY2017) Uniform Enforcement Oversight System (UEOS) Report. In accordance with EPA's Oversight Plan for the UT DEQ (the State), EPA performed a complete UEOS evaluation of the State's FY2017 drinking water enforcement activities. The UEOS report includes a review of specific activities including enforcement, performance partnership agreement (PPA) commitments and database integrity.

I want to thank you for your partnership and for your efforts to meet the FY2017 PPA commitments. During this review period, the State did an exceptional job of consistently reporting data to SDWIS-FED in a timely manner and addressed all but six Enforcement Targeting Tool (ETT) priority systems timely. Overall, the State manages an effective drinking water program.

Please review the report and submit any comments to me within 30 days. I would like to thank you and your staff for your cooperation and assistance during this review. If you have questions regarding this report, you may contact Olive Hofstader at (303) 312-6467 or at hofstader.olive@epa.gov.

Sincerely,

T. Cantor

Tiffany Cantor, Enforcement Unit Supervisor
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Draft USEPA UNIFORM ENFORCEMENT OVERSIGHT SYSTEM (UEOS) FY2017

Date:	May 2018	**EPA Evaluators:**	**Phone**
		Olive Hofstader	303-312-6467
State:	Utah	Christina Carballal	303-312-6046

Program Evaluated: UT DEQ Division of Drinking Water

Background: In the late 1990s, EPA Region 8 State directors requested that EPA conduct consistent enforcement oversight review activities across major media. These oversight activities were meant to focus on overall performance of enforcement programs and their activities. To facilitate this, State directors and EPA developed the Uniform Enforcement Oversight System (UEOS). The UEOS was designed to use relatively simple and understandable criteria to evaluate and compare performance across state environmental programs. The purpose was to clearly and consistently define EPA's expectation of the States' programs and to facilitate better communication and joint problem solving between EPA and the States. Beginning in 2004, EPA's enforcement oversight of State air, waste and wastewater programs evolved into the national State Review Framework. However, Region 8 has continued to conduct UEOS reviews of State drinking water enforcement activities.

For the drinking water programs, the UEOS focuses on three primary categories of program activities including:

- Enforcement Activities - Do the State's enforcement actions include required injunctive relief that will return facilities to compliance in a specific time frame? Does the State follow its state-developed enforcement escalation policy? Are enforcement actions taken in a timely manner? Were escalated formal enforcement actions taken when systems violated existing formal enforcement actions and penalties were warranted? Are gravity and economic benefit calculations appropriately calculated for all penalty actions? Do penalties collected in final enforcement actions (administrative or judicial orders) include appropriate economic benefit and gravity?

- Performance Under Annual Agreements – Are the enforcement commitments in the Performance Partnership Agreement (PPA) met, and are products or projects timely and complete?

- Database Integrity - Are the State's data reporting requirements timely, accurate, and complete? EPA enforcement will continue to evaluate timeliness and accuracy of formal enforcement uploads, but the evaluation of completeness regarding inventory data for grant eligibility and monitoring/reporting of violations for all major rules to SDWIS-Fed will now be evaluated by the Drinking Water Program.

Section 1: Enforcement Activity

1. **State enforcement actions include required injunctive relief that will return facilities to compliance within a specific time frame.**

   Findings:

   EPA found that in all 5 orders issued by the State in FY2017, specific violations were identified and addressed with a specific injunctive relief requirement and a specific period for compliance. The 5 actions are:

   - Arrowhead Investment Inc.
   - Camperworld – Lakeside Park
   - West Erda Improvement District
   - Goshen Town Water System
   - Riverbend Grove, Inc.

   Citation of information reviewed for this criterion:

   EPA reviewed the enforcement actions issued by the Division in FY2017.

   Recommendation:

   None

2. **The State follows its State-developed enforcement escalation policy.**

   Findings:

   UT DEQ does not have a formal escalation policy. EPA reviewed system files to identify violations and the State response to each. The following inconsistencies were identified during the file review.

   - Brickerhaven Subdivision. EPA is unsure how the State responded to two *E. coli* MCLs. A boil order (SFH) was not reported in SDWIS. One violation letter was issued timely; one violation letter was sent 4 months later. The violation letters did not instruct the system on actions to take other than requiring return to compliance. A formal enforcement was not included in the system file or SDWIS.

   - Old Pinery Recreation Area. EPA is unsure how the State responded to an *E. coli* MCL. A boil order (SFH) was not reported in SDWIS and the violation letter and Level 2 assessment were not in file. The only related item found in the file was a June 2017 request to use a water hauler due to *E. coli* being confirmed in samples.

   - Boulder Farmstead Water Co. January through March 2017 SWTR violations for monthly reporting of turbidity and disinfectant residuals are in SDWIS; however, there were no violation letters found in file.

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- Jordanelle SSD. July through September 2017 SWTR violations for monthly reporting of turbidity and disinfectant residuals are in SDWIS; however, there were no violation letters were found in file.

- Powder Mountain WSID. January through March, and July through September SWTR violations for monthly reporting of turbidity and disinfectant residuals are in SDWIS; however, there were no violation letters were found in file.

- Twin Creeks SSD. July through September SWTR violations for monthly reporting of turbidity and disinfectant residuals are in SDWIS; however, there were no violation letters were found in file.

- Willow Creek Water Co. July through September SWTR violations for monthly reporting of turbidity and disinfectant residuals are in SDWIS; however, there were no violation letters were found in file.

- Winchester Hills Water Co. April through June SWTR violations for monthly reporting of turbidity and disinfectant residuals are in SDWIS; however, there were no violation letters were found in file.

Citation of information reviewed for this criterion:

The following 15 PWS files were reviewed.

PWS ID	PWS Name
UTAH04001	ASPEN VIEW-SCOFIELD MOUNTAIN HOMES
UTAH09002	BOULDER FARMSTEAD WATER CO
UTAH25023	BRICKERHAVEN SUBDIVISION
UTAH07039	CAMPERWORLD - LAKESIDE PARK
UTAH25013	GOSHEN TOWN WATER SYSTEM
UTAH26055	INTERLAKEN MUTUAL WATER CO
UTAH26086	JORDANELLE SSD
UTAH19004	MONTICELLO CITY
UTAH12027	OLD PINERY RECREATION AREA
UTAH29028	POWDER MOUNTAIN WSID
UTAH25077	RIVERBEND GROVE, INC.
UTAH03021	TRENTON TOWN WATER SYSTEM
UTAH26080	TWIN CREEKS SSD
UTAH02062	WILLOW CREEK WATER CO
UTAH27049	WINCHESTER HILLS WATER CO

Recommendation:

EPA commends the UT DEQ in addressing most compliance in a timely manner by issuing violation letters and enforcement actions. However, as evidenced above, some SWTR violations were not addressed timely. Response to *E. coli* MCLs is not adequately documented.

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3. **Enforcement Actions are taken in a timely manner.**

Of the approximately 1,038 water systems that the UT DEQ regulates, 62 (6%) were identified as ETT priority systems during FY2017. The UT DEQ addressed 56 of the priority water systems in accordance with EPA's definition of "timely." A system may be addressed by either issuing a formal enforcement action or returning the system to compliance (by entering an SOX code in the SDWIS database). EPA determined that a priority system had been addressed by its removal from a subsequent ETT priority list.

Findings:

The EPA determined that most systems were addressed in a timely manner, with the exception of the following:

- Bear Paw Lakeview Resort was a priority system for all 4 quarters during FY2017. However, annotations indicate a change in ownership in early 2017 and monitoring violations remained on the ETT from the previous owner. A 2014 nitrate monitoring violation was returned to compliance (RTCd) on May 8, 2017. This same date should have been used to RTC the 2015 and 2016 nitrate monitoring violations, which would have prevented this system from being a priority system on the July 2017 ETT list. Priority status was resolved on July 12, 2017.
- Dutch John Town Water System. SWTR treatment technique violations were not addressed timely. This system had 20 ETT points in January and April 2017. The July 2017 ETT report showed the system dropped to 0 ETT points, which appears to be in error. The October 2017 ETT had 60 points for the system, and included all violations from the January and April ETT lists. The majority of SWTR violations were returned to compliance on November 13, 2017, and the ETT score has been 0 since the January 2018 ETT.
- Old Meadows Water Co. Has been a priority system since the April 2017 ETT due to three consecutive years of lead and copper monitoring violations, and failure to correct significant deficiencies. This is still a priority system on the July 2018 ETT; however, the lead and copper monitoring violations were returned to compliance in May 2018.
- Pine Hollow Water Company. This system had 25 points on the January 2017, April 2017 and July 2017 ETT lists due to 2 *E. coli* MCLs in June and July 2016, and uncorrected significant deficiencies from May 2016. The *E. coli* MCLs were returned to compliance on April 26, 2017, and the deficiency violation was returned to compliance on August 16, 2017. The system is no longer a priority system on the ETT.
- Sunset Park Water Company. This system was a priority due to a long standing uncorrected significant deficiency from 2010 that was not returned to compliance until January 2018. Therefore, it remained a priority system for 4 quarters.
- Wales Town Water System. This system was a priority due to Stage 1 DBP violations spanning 2013 through 2016. One violation was returned to compliance on September 25, 2015. All 2013 through September 2015 should have been returned to compliance at the same time, but were returned to compliance on May 1, 2017. Had the state applied EPA's return to compliance criteria, this system would not have reached priority status in FY2017.

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Citation of information reviewed for this criterion:

EPA reviewed water systems at or above the score of 11 on the October 2016, January 2017, April 2017, and July 2017 Utah ETT list. Of those, the EPA determined which were addressed in a timely manner (6 months from the UT DEQ receiving the ETT list from EPA) during FY2017.

Recommendation:

EPA recommends addressing each priority system within 6 months after receiving the priority list from EPA.

4. **An escalated enforcement action is taken when a system violates an existing formal enforcement action and a penalty is warranted.**

Findings:

No penalties were warranted for the formal orders issued in FY2017.

Citation of information reviewed for this criterion:

N/A

Recommendation:

None

5. **Gravity and economic benefit calculations are appropriately calculated for all penalty actions.**

According to the Revised Policy Framework for State/EPA Enforcement Agreements, States should consider appropriate economic benefit and gravity to remove incentives for noncompliance, establish deterrence, and recover the benefit the violator gained through noncompliance (U.S. EPA, 1986).

Findings:

No penalties issued.

Citation of information reviewed for this criterion:

N/A

Recommendation:

N/A

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6. **Penalties collected in final enforcement actions (administrative settlements or judicial orders) include appropriate economic benefit and gravity.**

Findings:

No penalties collected.

Citation of information reviewed for this criterion:

N/A

Recommendation:

N/A

Section 2: Review of Performance Partnership Agreement or State/EPA Agreement

7. **Enforcement commitments in the PPA are met and products are timely and complete.**

Deliverable	Completed	Timely	Comments
Annotate the quarterly ETT list by indicating the state actions planned for each identified priority ETT system, the projected timeframe for such actions and other relevant information that helps EPA evaluate candidates for federal enforcement. Provide the annotated list to EPA within 30 calendar days of receipt.	Yes	Yes	
Address all priority ETT systems (through formal enforcement or appropriate return to compliance) within 6 months of their being identified as priorities, with the goal of taking action before systems reach the priority status.	No	No	See question 3.
Provide EPA with access to: 1) state PWS files and data for EPA's oversight purposes; 2) all final administrative and judicial settlement agreements; and 3) penalty calculations and supporting documents.	Yes	Yes	
Upload all violations, enforcement actions and applicable return-to-compliance codes into SDWIS the quarter following their occurrence.	Yes	Yes	
Ensure that all enforcement actions are linked to violations in SDWIS except for the approved orphan actions identified in guidance.	N/A	N/A	
Has primacy enforcement authority for all existing rules. Commits to maintaining and implementing regulations that are at least as stringent as the federal Safe Drinking Water Act.	Yes	Yes	
Utah will submit a list to EPA by November 15th: 1. All systems that are required to filter under the	Yes	Yes	

SWTR but are not yet filtering. For systems on compliance schedules, provide the enforcement document schedule. If not under a compliance schedule, provide a rationale and proposed action and timing for securing compliance. 2. Ground water under the direct influence determinations made and the compliance status of each system.			

Citation of information reviewed for this criterion:

Comparison of the state's PPA, end of year report, or other pertinent oversight activities.

Recommendation:

EPA commends the UT DEQ for meeting most of its enforcement commitments. UT DEQ should address each priority system within 6 months after receiving the priority list from EPA.

Section 3: Review of Database Integrity

8. Degree to which the State's formal enforcement actions are reported to SDWIS-Fed.

States are required by 40 CFR§ 142.15(a) to report violations and enforcement data to EPA each quarter. EPA evaluated whether the UDEQ's information in water system files regarding enforcement actions were accurately and timely reflected in the SDWIS-Fed database.

Findings:

Five formal enforcement actions were reported to SDWIS-Fed for FY2017. The state has developed a spreadsheet to track requirements in formal enforcement actions to monitor for compliance and escalation.

Citation:

SDWIS-FED

Recommendation:

N/A

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