

United States
Environmental Protection
Agency

Office of Water
(4606)

EPA 816-R-01-010
October 2001


 **EPA Final State
Implementation
Guidance
for the
Public Notification
(PN) Rule**

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Acronyms

CCR	Consumer Confidence Report
CWS	Community Water System
DBP	Disinfection Byproduct
EPA	Environmental Protection Agency
GAO	General Accounting Office
HPC	Heterotrophic Plate Count
IESWTR	Interim Enhanced Surface Water Treatment Rule
IOC	Inorganic Chemical
LCR	Lead and Copper Rule
MCL	Maximum Contaminant Level
MCLG	Maximum Contaminant Level Goal
MRDL	Maximum Residual Disinfectant Level
MRDLG	Maximum Residual Disinfectant Level Goal
NCWS	Non-Community Water System
NPDWR	National Primary Drinking Water Regulation
NTNCWS	Non-Transient Non-Community Water System
NTU	Nephelometric Turbidity Unit
OGWDW	Office of Ground Water and Drinking Water
OW	Office of Water
PN	Public Notification
PWS	Public Water System
RTC	Return to Compliance
SDWA	Safe Drinking Water Act
SDWIS	Safe Drinking Water Information System
SMCL	Secondary Maximum Contaminant Level
SOC	Synthetic Organic Chemical
SWTR	Surface Water Treatment Rule
TCR	Total Coliform Rule
TT	Treatment Technique
TNCWS	Transient Non-Community Water System
VOC	Volatile Organic Chemical

Introduction

The Public Notification (PN) rule requires public water systems (PWSs) to alert consumers to potential health risks from violations of drinking water standards and to tell them how to avoid or minimize such risks. The revised PN Rule, published in the *Federal Register* on May 4, 2000, modifies the minimum requirements PWSs must meet regarding the form, manner, frequency, and content of public notices. States with primary enforcement responsibility (primacy) must revise their drinking water programs by adopting regulations that are at least as stringent as the revised public notification requirements as soon as possible but no later than two years after promulgation of the final rule (by May 6, 2002). This guidance is designed to assist States in applying for primacy revision for the Public Notification Rule. Information on the primacy revision process—the procedures, timeframes, and content for submission of a State primacy revision application package—are outlined in this document. This guidance is also intended for use by EPA Regions as they review State primacy revision application packages.

Public notification of drinking water violations provides water systems with a means to protect public health, build trust with consumers through open and honest sharing of information, and establish an ongoing, positive relationship with the community. Public notice can also help consumers understand rate increases and support increased funding for drinking water treatment and protection. EPA believes the new requirements make it easier for systems to provide consumers with more accurate and timely information on violations and the seriousness of any potential adverse health effects.

To aid water systems in implementing the revised regulation, EPA and the Association of State Drinking Water Administrators (ASDWA) developed a *Public Notification Handbook* (EPA 816-R-00-010). The *Handbook* contains templates for notices and other aids to help water systems develop notices for violations and other situations. By explaining the revised PN Rule and providing specific examples of notices in the *Handbook*, EPA hopes to streamline the public notification process and enhance water systems' ability to comply with Federal and State requirements. EPA also encourages States to incorporate the *Handbook* into their public notification program.

EPA encourages States, where possible, to adopt and implement the PN Rule together with the Consumer Confidence Report (CCR) rule since these two rules are interrelated public right-to-know provisions. EPA believes that consumers have a right to know what is in their drinking water and where it comes from before they turn on the tap. The PN and CCR Rules provide mechanisms to transmit this information to consumers. The CCR Rule requires community water systems (CWSs) to provide customers with

annual reports explaining the source of their drinking water and the steps taken by the system to deliver safe drinking water to their homes. This includes information on compliance with existing Federal and State standards, likely sources of detected contaminants, and potential health effects of violations. The PN Rule gives water systems the option of providing an annual notice listing all Tier 3 violations occurring during the previous year, as long as the notice is distributed no later than one year after the earliest of the included violations. In some cases, a CWS may be able to use its CCR as the annual report to give the initial public notice for less serious violations identified as Tier 3.

This document provides guidance to EPA Regions and States exercising primary enforcement responsibility under the Safe Drinking Water Act (SDWA) concerning how EPA interprets the Public Notification Rule under SDWA. It also provides guidance to the public and the regulated community on how EPA intends to exercise its discretion in implementing the statute and regulations. This guidance is designed to implement national policy on these issues.

The SDWA provisions and EPA regulations described in this document contain legally binding requirements. This document does not substitute for those provisions or regulations, nor is it a regulation itself. Thus it does not impose legally-binding requirements on EPA, States, or the regulated community, and may not apply to a particular situation based upon the circumstances. EPA and State decisionmakers retain the discretion to adopt approaches on a case-by-case basis that differ from this guidance where appropriate. Any decisions regarding a particular facility will be made based on the applicable statutes and regulations. Therefore, interested parties are free to raise questions and objections about the appropriateness of the application of this guidance to a particular situation, and EPA will consider whether or not the recommendations or interpretations in the guidance are appropriate in that situation. EPA may change this guidance in the future.

Section I. Rule Requirements

A. Key Dates

Public notice of drinking water violations and other situations provides a means to protect public health. Public notification regulations were first issued in 1976 and revised in 1987. In 1992 a review of the public notification process by the General Accounting Office (GAO) revealed that the complexity of the rule hindered its successful implementation. Section 114 of the 1996 Amendments to the Safe Drinking Water Act (SDWA), required EPA to amend the existing public notification provisions to better target notices for serious violations posing a short-term exposure risk to health and to make the existing notification process less burdensome and more effective.

EPA published final regulations to revise the minimum requirements PWSs must meet regarding the form, manner, frequency, and content of public notices in the *Federal Register* on May 4, 2000 (65 *FR* 25981). The new regulations under Part 141, Subpart Q apply to public water systems in jurisdictions where EPA directly implements the program as of October 31, 2000. The provisions under Subpart Q will not apply to public water systems in States with primacy for the public water system supervision (PWSS) program until May 6, 2002 or until the State-adopted rule becomes effective, whichever is sooner. Until the new regulations under Part 141, Subpart Q apply, public water systems must continue to comply with the public notification requirements under §141.32.

The revised PN Rule amended the CCR Rule as well as various provisions in 40 CFR Part 141, to make these rules consistent with the final PN Rule. Changes to the CCR Rule became effective on June 5, 2000, the date the PN Rule became effective. Three content changes made to better align the CCR Rule with the PN Rule are:

- ▶ The three Appendices to Subpart O, which contain various pieces of information about the contaminants that EPA regulates, are deleted and the information is combined into a new, comprehensive Appendix A to Subpart O. As a result of this change, a number of references in the CCR Rule to the three appendices are revised to reflect the new Appendix A. As new rules are promulgated that change the information in Appendix A, EPA will maintain an updated version of Appendix A on its website at www.epa.gov/safewater/tables.html. This will eliminate the need to republish the entire appendix in each final rule that changes the information it contains.
- ▶ The new Appendix A to Subpart O contains regulatory and health effects information on each of the disinfectants and disinfection byproducts regulated in the Stage 1 D/DBP rule that EPA published in December 1998. Although systems will not be required to include information on these contaminants in their CCRs until after the effective date of the new Stage 1 D/DBP regulations, some systems may choose to do so earlier.
- ▶ The standard health effects language for fluoride in the current CCR regulations is revised to be identical to the health effects language required for violation of the fluoride maximum contaminant level (MCL) in the PN Rule.

B. Key Elements of the Revised Public Notice Regulation

B.1. Who Must Give Notice [40 CFR 141.201]

The PN Rule applies to all PWSs with violations of national primary drinking water regulations (NPDWRs) or other situations posing a public health risk. Each owner or operator of a PWS must provide a public notice to all persons served when the system fails to comply with certain drinking water regulations, has been granted a variance or exemption from the regulations, or is facing other situations posing a potential risk to public health.

B.2. Public Notice Tiers 1, 2, and 3 [40 CFR 141.202(a) & (b), 141.203(a) & (b), and 141.204(a) & (b)]

The PN Rule assigns violations of drinking water standards and other situations into three tiers based upon the risk of adverse health effects:

- **Tier 1**, for NPDWR violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure. Notice is required within 24 hours of the violation or situation.
- **Tier 2**, for other NPDWR violations and situations with potential to have serious adverse effects on human health. Notice is required within 30 days of the violation or situation, with an extension of up to three months at the discretion of the primacy agency.
- **Tier 3**, for all other NPDWR violations and situations requiring a public notice not included in Tier 1 and Tier 2. Notice is required within 12 months of the violation or situation.

The tier to which a violation or other situation is assigned determines the form, content, and frequency of the public notice. EPA believes this linkage will allow water systems to effectively tailor the public notice to the health risk from each violation.

In general, public notice is required for any of the following violations:

- Exceedances of MCLs or maximum residual disinfectant levels (MRDLs);
- Violation of treatment techniques;
- Monitoring and testing procedure violations; and
- Failure to comply with the schedule of a variance or exemption.

Other situations (not violations) which require public notice include:

- Operation under a variance or exemption;
- Occurrence of a waterborne disease outbreak or other waterborne emergency;
- Exceedance of the fluoride secondary MCL (SMCL);
- Availability of unregulated contaminant monitoring results; and
- Exceedance of the nitrate MCL in non-community water systems (NCWSs) that have been granted permission by the State to continue to exceed the nitrate MCL of 10 mg/l (although they may not exceed 20 mg/l).

Primacy agencies may require notice for other violations and situations. Table 1 below shows the appropriate tiers for NPDWR violations and other situations. A complete list of contaminants and their appropriate tiers can be found in Appendix A of the PN Rule.

Table 1 - Violations and Situations Requiring Public Notice

Tier 1 Violations and Other Situations Requiring Notice Within 24 Hours*

1. Violation of the MCL for total coliform, when **fecal coliform or E. coli** are present in the water distribution system, or **failure to test** for fecal coliform or *E. coli* when any repeat sample tests positive for coliform;
2. Violation of the MCL for **nitrate, nitrite, or total nitrate and nitrite**; or when a **confirmation sample** is not taken within 24 hours of the system's receipt of the first sample showing exceedance of the nitrate or nitrite MCL;
3. Exceedance of the **nitrate** MCL (10 mg/l) by non-community water systems, **where permitted** to exceed the MCL (up to 20 mg/l) by the primacy agency;
4. Violation of the MRDL for **chlorine dioxide**, when one or more of the samples taken **in the distribution system** on the day after exceeding the MRDL at the entrance of the distribution system, or when required **samples** are not taken in the distribution system;
5. Violation of the **turbidity MCL** of 5 NTU, where the primacy agency determines **after consultation** that a Tier 1 notice is required or where consultation does not occur in 24 hours after the system learns of violation;
6. Violation of the **treatment technique** requirement resulting from a **single exceedance** of the maximum allowable **turbidity limit**, where the primacy agency determines **after consultation** that a Tier 1 notice is required or where consultation does not take place in 24 hours after the system learns of violation;
7. Occurrence of a **waterborne disease outbreak**, as defined in 40 CFR 141.2, or **other waterborne emergency**; and
8. **Other violations or situations** with significant potential to have serious adverse effects on human health as a result of short-term exposure, as **determined by the primacy agency** either in its regulations or on a case-by-case basis.

* If the system has any of these violations or situations, in addition to issuing public notice, it must **initiate consultation with the primacy agency as soon as practical but within 24 hours** after learning of the violation or situation.

Note: Initiate consultation means that at a minimum, the system has taken steps to contact the primacy agency. EPA and most States now have voice mail or an emergency hotline, so systems should be able to leave a message. If the system is not able to reach anyone within the 24-hour period, the system must still issue public notice within that timeframe. When consultation does occur, the State or EPA will inform the system of any additional steps they must take as a follow-up to the initial notice.

Table 1 - Violations and Situations Requiring Public Notice

Tier 2 Violations Requiring Notice Within 30 Days**

1. All violations of **MCL**, **MRDL**, and **treatment technique** requirements except where Tier 1 notice is required;
2. Violations of the **monitoring** requirements where the **primacy agency determines** that a Tier 2 public notice is required, taking into account potential health impacts and persistence of the violation; and
3. Failure to comply with the **terms** and **conditions** of any **variance or exemption** in place.

** If the system exceeds the **maximum allowable turbidity level**, as identified in Appendix A of the PN Rule, it must **consult with the primacy agency as soon as practical but no later than 24 hours** after learning of the violation.

Note: Consult with the primacy agency means that the system has a discussion with the primacy agency about the violation. If the system does not have a consultation with the primacy agency within the 24-hour period, a Tier 1 public notice requirement is automatically triggered and the system must issue a public notice within the next 24-hour period. In contrast to the term "initiate consultation" for Tier 1 violations or situations, EPA intends that the system actually have a discussion about the violation or situation.

Tier 3 Violations and Other Situations Requiring Notice Within 1 Year

1. **Monitoring** violations, except where a Tier 1 notice is required or the primacy agency determines that the violation requires a Tier 2 notice;
2. Failure to comply with an established **testing procedure**, except where a Tier 1 notice is required or the primacy agency determines that the violation requires a Tier 2 notice;
3. **Operation under variance** granted under §1415 **or exemption** granted under §1416 of the Safe Drinking Water Act;
4. Availability of **unregulated contaminant** monitoring results; and
5. Exceedance of the secondary maximum contaminant level for **fluoride**.

**B.3. Minimum Delivery Requirements for Public Notice
[40 CFR 141.202(c), 141.203(c), and 141.204(c)]**

The revised PN Rule establishes minimum delivery methods for systems to use in distributing public notices for a Tier 1, 2, or 3 violation or situation. Water systems must select at least one delivery method from the regulatory list and take steps reasonably calculated to reach others served by the system.

Section 141.202(c) of the final rule gives systems the flexibility to choose the specific method of delivery to distribute Tier 1 notices. For Tier 1 notification, a PWS must use, at a minimum, at least one of the following delivery methods: appropriate broadcast media, posting of the notice in conspicuous locations, hand delivery, or another minimum delivery method specified in writing by the primacy agency. The rule also establishes a performance standard requiring the system to use delivery methods reasonably calculated to reach all other persons not reached by the minimum method within the 24-hour period, including all residential, transient, and non-transient users of the water. The added flexibility is a change from the existing rule which required systems to provide an initial notice in all cases by electronic media and subsequent notices were to be delivered first by newspaper and later on by mail.

Delivery requirements for Tier 2 and 3 notices differ depending on whether a system is a CWS or a NCWS. The requirements for delivering Tier 2 notices are specified at §141.203(c); requirements for Tier 3 notification are at §141.204(c). The final rule requires a CWS, at a minimum, to mail or otherwise directly deliver the notice to each customer receiving a bill and to other service connections to which water is delivered. NCWSs must, at a minimum, post the notice in conspicuous locations or mail or directly deliver the notice to each customer and service connection (if known).

If a public notice is posted, it must remain in place for as long as the violation or situation lasts, but in no case less than seven days, even if the violation or situation is resolved [§141.203(b) and §141.204(b)]. Generally, a violation or situation is considered to be resolved when the system has returned to compliance as defined by the regulation in question; however systems may wish to contact their primacy agency to determine whether a violation or situation is resolved.

For both CWSs and NCWSs, there may be a few cases where a system may be able to reach all persons served with the first method chosen. For example, at a gas station posting would be sufficient to reach all persons served. In such cases, the system may not need to use additional methods. Additionally, community water systems must notify every new billing unit or new customer of any ongoing violations for which notice has previously been issued. Section 141.206(b) of the final rule deals specifically with non-community systems, and requires them to post public notices for as long as the violation or situation lasts in order to reach new consumers.

Table 2 on the next page summarizes the minimum delivery requirements prescribed for Tier 1, 2, and 3 notices.

Table 2 - Requirements for Issuing Public Notice	
Violation	Requirements
Tier 1	<p>Deadline for Notice: 24 Hours *</p> <p>Delivery Methods: PWSs are required to use, at a minimum, one or more of the following methods:</p> <ol style="list-style-type: none"> 1) Appropriate broadcast media (radio or television), 2) Posting, 3) Hand delivery, or 4) Another delivery method approved in writing by the primacy agency.
Tier 2	<p>Deadline for Notice: 30 Days **</p> <p>Delivery Methods: Unless directed by the State in writing, a PWS must provide notice by the following methods:</p> <p>CWS: <ol style="list-style-type: none"> 1) Mail or other direct delivery (i.e., hand), <u>and</u> 2) Any other method reasonably calculated to reach other persons regularly served, if they would not normally be reached by the method above. </p> <p>NCWS: <ol style="list-style-type: none"> 1) Posting, or mail, or direct delivery, <u>and</u> 2) Any other method reasonably calculated to reach other persons regularly served, if they would not normally be reached by the method above. </p>
Tier 3	<p>Deadline for Notice: 1 Year ***</p> <p>Delivery Methods: Unless directed by the State in writing, a PWS must provide notice by the following methods:</p> <p>CWS: <ol style="list-style-type: none"> 1) Mail or other direct delivery (i.e., hand), <u>and</u> 2) Any other method reasonably calculated to reach other persons regularly served, if they would not normally be reached by the method above. </p> <p>NCWS: <ol style="list-style-type: none"> 1) Posting, or mail, or direct delivery, <u>and</u> 2) Any other method reasonably calculated to reach other persons regularly served, if they would not normally be reached by the method above. </p>
<p>* Systems must initiate consultation with the primacy agency during this period.</p> <p>** Systems with turbidity MCL violations based on the average of samples over two days or with turbidity single exceedance treatment technique violations must consult with the primacy agency within 24 hours after learning of the violation.</p> <p>*** EPA recommends consolidating all Tier 3 violations and situations occurring within a given year into an annual notice.</p>	

B.4. Who Must be Notified **[40 CFR 141.201(c), 141.206, and 141.210]**

Each PWS must provide public notice to persons served by the water system [141.201(c)]. EPA interprets the obligation of a system to reach persons served to extend beyond bill-paying customers and service connections to all consumers of the system's drinking water. This means that a PWS must take steps reasonably calculated to inform people who drink the water if they would not be reached by the minimum delivery methods. For example, if a CWS mails a notice to its billing customers only, people who do not receive water bills, such as tenants or people who work in the area served by the system but live elsewhere, would not receive a notice. Publishing the notice in the newspaper and providing copies of the notice to landlords to distribute to their tenants would help reach those people. In addition to hand delivery of notices to consumers, a NCWS could post public notices to reach visitors or newcomers who were not present when the initial notices were distributed.

The rule also requires inclusion of standard language in the notice to encourage those receiving the notice to distribute it to other persons who may drink the water [141.205(d)(2)]. EPA believes distribution of the notice to all persons served increases public awareness of the situation. Use of this language does *not* relieve systems of their obligation to notify persons served:

“Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.”

Consecutive Systems [141.201(c)(1)]

Public water systems that sell or otherwise provide drinking water to other public water systems are required to give public notice of a violation or situation to the owner or operator of any systems to whom they sell water. (Selling systems are known as “parent” systems; purchasing systems are referred to as “consecutive” systems.) The parent system is not required under the PN Rule to distribute notice to persons served by the consecutive systems. It is the responsibility of the consecutive system to provide public notice to the people it serves. For example, if a PWS supplies water to six other systems, the PN Rule requires the parent system to provide public notice to the owner or operator of each of the other six water systems. Each of the six consecutive systems must, in turn, provide notice to the persons it serves within the appropriate deadline.

The “clock” for public notification (i.e., the point in time from which the deadline for notification is determined) begins for each of the consecutive systems when it is notified of the violation or situation. This could have a “multiplying” effect, for instance, where a system purchases water, then sells some of this water to another system—in a Tier 1 situation, the notification deadline for the third system could be up to three days after the violation was originally identified. In such circumstances, it may be easier and more appropriate for the parent system to notify all consumers of consecutive systems by

broadcasting the notice over television or radio, or for the systems to issue joint notices. In general, parent systems should send copies of the notice to their consecutive systems prior to notifying the media, if time permits. Although the legal obligations are clear under the rule, EPA recommends that in such cases the parent and consecutive systems agree on, and specify in their contracts, the most effective approach for distributing public notices.

Limited Distribution of Notices [141.201(c)(2)]

The PN Rule provides States with the flexibility to allow a water system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance in cases where the system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system. The State must provide permission for limiting distribution of the notice in writing.

Copy of Notice to Primacy Agency [141.201(c)(3)]

A copy of the notice must also be sent to the primacy agency, in accordance with the requirements under 141.31(d).

Notice to New Billing Units [141.206]

The rule requires community water systems to give a copy of the most recent public notice for any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins. Non-community water systems must continuously post the public notice in conspicuous locations to inform new consumers of any continuing violation, the existence of a variance or exemption, or other ongoing situations requiring public notice.

Notice by the Primacy Agency on Behalf of the System [141.210]

The primacy agency may give public notice on behalf of the PWS if all public notification requirements are met. The owner or operator of the PWS remains responsible for ensuring that the public notification requirements are met.

B.5. Content of a Public Notice - Ten Required Elements [40 CFR 141.205(a)]

With the exception of special notices described in Section B.9., all public notices must include a clear and readily understandable explanation of each violation or situation and must address the following ten elements:

- 1) Description of the violation or situation including contaminant(s) of concern and (as applicable) the contaminant level(s);

- 2) When the violation or situation occurred;
- 3) Any potential adverse health effects from the violation or situation, using standard language provided in the rule;
- 4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
- 5) Whether alternate water supplies should be used;
- 6) What actions consumers should take, including when to seek medical help, if known;
- 7) What the system is doing to correct the violation or situation;
- 8) When the system expects to return to compliance or resolve the situation;
- 9) Contact information: name, business address, and phone number of the water system owner, operator, or designee of the PWS that can provide additional information; and
- 10) A statement encouraging notice recipients to distribute the notice to other persons served using standard language from the rule, where applicable.

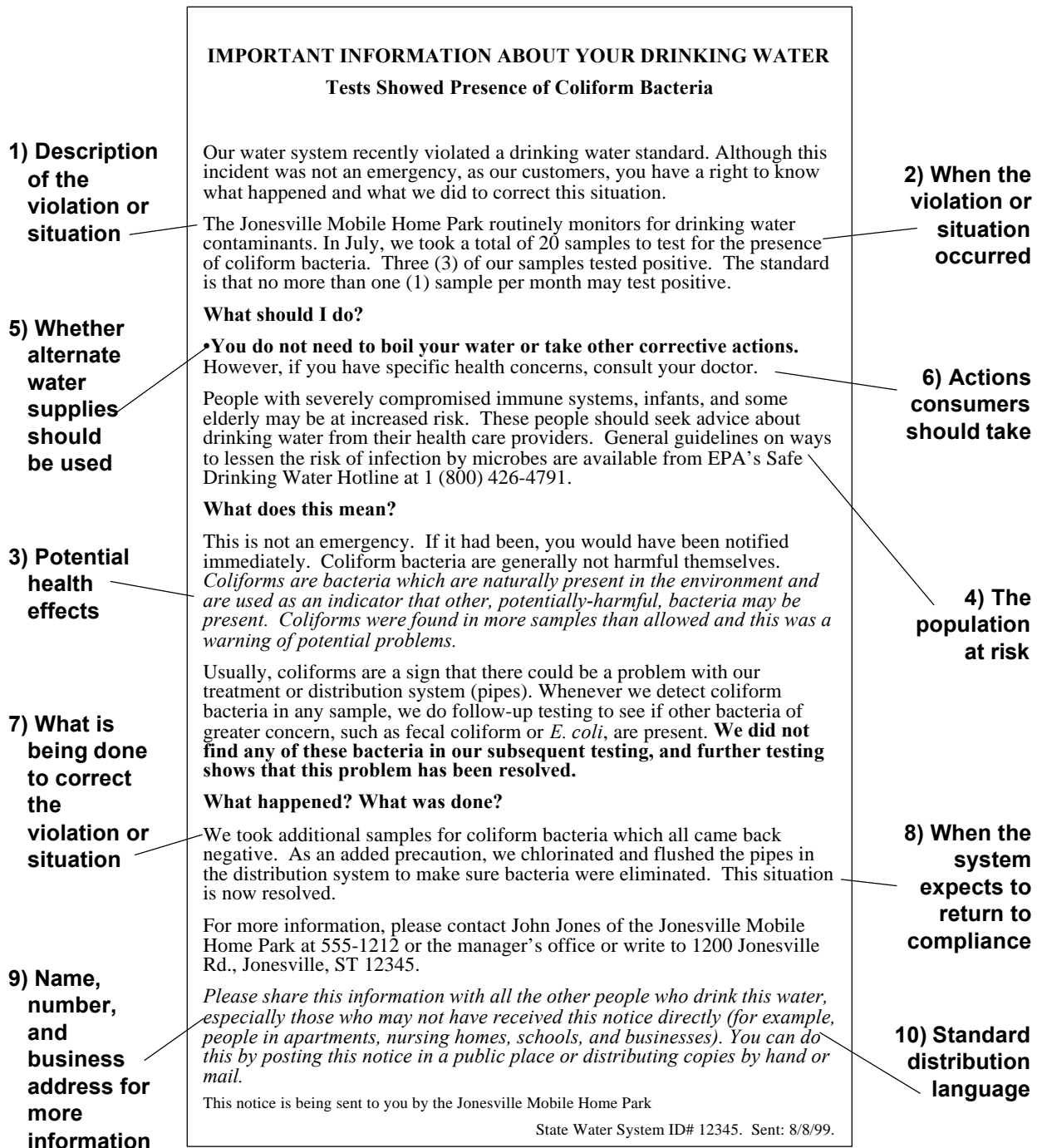
Some required elements may not be applicable to a violation; however, the system must still address these elements in the notice. For example, if it is unnecessary for consumers to boil their water or drink bottled water, the system should tell them they do not need to do so. EPA believes this is especially important for Tier 2 notices, where a violation may have been resolved by the time the notice is issued or may not be an immediate health risk. Systems may consult with their primacy agency or a local health department for the appropriate information for some elements of the notice, such as the actions consumers should take. The local health department also can help identify other system-specific information, such as the population at risk (e.g., children, dialysis patients).

If a system does not know when it will return to compliance, EPA expects the notice to give consumers an idea of how long it will take—for example, a few days for an *E. coli* violation or months for failure to install corrosion control. Public notice is required for as long as the violation or other situation persists. When the problem is resolved, EPA recommends that a system issue a follow-up notice.

Some situations, such as waterborne emergencies, may not have mandatory health effects language, but systems must still describe potential health effects. A PWS may be able to adapt the language from a treatment technique or MCL violation. Figure 1 contains an example showing how all the required content elements fit into a notice for a violation.

Figure 1

The Required Elements of a Public Notice



B.6. Variances and Exemptions

[40 CFR 141.204(b)(1) and 141.205(b)]

Systems operating under a variance or exemption must notify their consumers within one year of obtaining a variance or exemption and repeat the notice annually for as long as the variance or exemption exists. In addition if the notice is posted, it must remain in place for as long as the variance or exemption exists [40 CFR 141.204(b)(1)]. The notice must include the following:

- (i) an explanation of the reasons for the variance or exemption,
- (ii) the date on which the variance or exemption was issued,
- (iii) brief report on the steps the system is taking to comply with the terms of the variance or exemption, and
- (iv) notice of any opportunity for public input of the variance and exemption.

A system that violates the conditions of a variance or exemption must issue a public notice containing the ten elements specified in §141.205(a) of the PN Rule [40 CFR 141.205(b)].

B.7. Multilingual Requirements

[40 CFR 141.205(c)(2)]

The PN Rule also established minimum multilingual requirements for PWSs to meet. If a large proportion of the population a system serves does not speak English, the system must provide at least partially multilingual notices. The notice must, at a minimum, contain information in the appropriate language(s) regarding the importance of the notice, or it must provide a phone number or address where a translated notice or information or assistance in the appropriate language are available. The primacy agency may establish criteria for what constitutes a large proportion of the population served. The PN Rule also requires a PWS to comply with the multilingual requirements, where appropriate, even in those cases where the State does not provide further direction.

EPA expects systems to rely on knowledge of their consumer base or contacts with community representatives. As a guideline in making such a determination, some states have used a threshold of ten percent of the population or 1,000 people, whichever is less, for providing multilingual information in their CCRs. A possible source of information on the languages spoken in a locale is the U.S. Census Bureau's website, factfinder.census.gov, which contains information about local communities. The census database includes answers to questions about what languages besides English are spoken at home and the level of English proficiency.

EPA expects systems to be more proactive in deciding whether to translate PNs than they would for CCRs because public notices are about violations of drinking water standards or other situations that pose a health risk, whereas CCRs are educational. Systems may wish to provide notices in multiple languages if non-English speaking populations are in the service area, whether or not there are a large proportion of such people. Although systems are not required to provide full translations of notices, this is

strongly recommended for Tier 1 notices and for other violations that pose a serious health risk.

B.8. Standard Language for Public Notices [40 CFR 141.205(d)]

The PN Rule contains mandatory health effects language for MCL and treatment technique violations and standard language for monitoring violations and distribution of the notice to all persons served.

- Appendix B of the PN Rule specifies health effects language for MCL and MRDL violations, treatment technique violations, and violations of the conditions of a variance or exemption. A PWS must include in each public notice the health effects language specified in Appendix B. Systems should also describe potential health effects for other situations, if any, even if there is no mandatory language [141.205(d)(1)].
- The following language must be included for all monitoring violations (including testing procedure violations) [141.205(d)(2)]:

“We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During [compliance period], we [‘did not monitor or test’ or ‘did not complete all monitoring or testing’] for [contaminant(s)], and therefore cannot be sure of the quality of your drinking water during that time.”

- The following language to encourage distribution of the notice to all persons served must be included in all notices, where appropriate [141.205(d)(3)]:

“Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.”

B.9. Special Notices for Unregulated Contaminant Monitoring, Fluoride SMCL Exceedances, and Nitrate Exceedances Above the MCL by NCWSs [40 CFR 141.207, 141.208, and 141.209]

The PN Rule specifies different content requirements for public notices of the availability of unregulated contaminant monitoring data, for fluoride SMCL exceedances, and for nitrate exceedances above the MCL by NCWSs.

- **Unregulated contaminant monitoring [§141.207]:** If a PWS is required to monitor for unregulated contaminants under the Unregulated Contaminant Monitoring Rule, it must issue a public notice stating that the results of the

monitoring are available and give a phone number to call for those results. The ten elements of a public notice do not need to be included, but the system must follow the Tier 3 schedule to issue a public notice no later than 12 months after the monitoring results are known. Systems also have the option to include this information in an annual notice for Tier 3 situations and violations.

- **Fluoride [§141.208]:** CWSs that exceed the SMCL of 2 mg/l for fluoride but do not exceed the MCL of 4 mg/l must provide public notice containing the special fluoride language shown below. Systems do not need to include the ten elements identified in Section B.5 of this guidance, as these are addressed in the language. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance.

This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 milligrams per liter (mg/l) of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system [name] has a fluoride concentration of [insert value] mg/l.

Dental fluorosis, in its moderate or severe forms, may result in a brown staining and or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

Drinking water containing more than 4 mg/l of fluoride (the U.S. Environmental Protection Agency's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.

For more information, please call [name of water system contact] of [name of community water system] at [phone number]. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.

A copy of the notice must also be sent to all new billing units and new customers at the time service begins as well as to the State public health officer or State health department. The water system must repeat the notice annually for as long as the SMCL is exceeded. If the public notice is posted, the notice must remain in place for as long as the SMCL is exceeded, but in no case less than seven days (even if the exceedance is eliminated). On a case-by-case basis, the primacy agency may require an initial notice sooner than 12 months and repeat notices more frequently than annually. The form and manner of the public notice (including repeat notices) must follow the requirements for a Tier 3 public notice specified in §141.204(c) and (d)(1) and (d)(3) of the rule.

- **Nitrate exceedances above the MCL by NCWSs [§141.209]**: The owner or operator of a NCWS granted permission by the State under §141.11(d) to exceed the nitrate MCL must provide notice to persons served according to the requirements for a Tier 1 notice under §141.202(a) and (b). The NCWS must provide continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure, according to the requirements for Tier 1 notice delivery under 141.202(c) and the content requirements under §141.205.

B.10. Formatting Requirements for Public Notices [40 CFR 141.205(c)(1)]

All public notices must meet certain formatting standards. These requirements help prevent the notice from being buried in a newspaper and help ensure that consumers can easily understand the notice. Notices must:

- ✓ Be displayed in a conspicuous way (where printed or posted);
- ✓ Not contain overly technical language or very small print;
- ✓ Not be formatted in a way that defeats the purpose of the notice; and
- ✓ Not contain language which nullifies the purpose of the notice.

B.11. Certification [40 CFR 141.31(d)]

The PN Rule requires a PWS, within 10 days of completing the public notification requirements for the initial public notice and any repeat notices, to submit to the State a certification that it has fully complied with the public notification regulations. A PWS must include with the certification a representative copy of each type of notice distributed, published, posted, or made available to the persons served by the system and to the media (e.g., press release to TV/radio, mail notices). A sample certification “box” with appropriate language, suitable for checking off required activities as a PWS completes them is provided on the next page. The box is not mandatory (only a statement is); however, it is a useful tool for tracking and noting required activities.

PWS Name: _____ [system name] _____
 -
 PWS-ID #: _____ [PWS number] _____
 -
 For Violation: _____ [describe violation or situation] _____
 occurring on _____ [insert date] _____.

The public water system indicated above hereby affirms that public notice has been provided to consumers in accordance with the delivery, content, and format requirements and deadlines in [regulatory citation].

Consultation with primacy agency (if required) on _____ [insert date] _____.

Notice distributed by _____ [insert method] _____ on _____ [date] _____.

Notice distributed by _____ [insert method] _____ on _____ [date] _____.

Content - 10 elements

Signature of owner or operator _____

Date _____

B.12. Changes to Other Rules

The revised PN Rule amended the CCR Rule as well as various provisions in 40 CFR Part 141, to make these rules consistent with the final PN Rule.

Changes to the CCR Rule

Changes to the CCR Rule became effective June 5, 2000. Four changes made to better align the CCR Rule with the PN Rule are:

- ▶ Appendices A, B, and C to Subpart O, which contain various pieces of information about the contaminants that EPA regulates, are deleted and the information is combined into a new, comprehensive Appendix A to Subpart O. As new rules are promulgated that change the information in Appendix A, EPA will maintain an updated version of Appendix A on its website at www.epa.gov/safewater/tables.html. This will eliminate the need to republish the entire appendix in each final rule that changes the information it contains.
- ▶ The new Appendix A to Subpart O contains regulatory and health effects information on each of the disinfectants and disinfection byproducts regulated in the Stage 1 D/DBP rule that EPA published in December 1998. Although systems will not be required to include

information on these contaminants in their CCRs until after the effective date of the new Stage 1 D/DBP regulations, some systems may choose to do so earlier. EPA added information on the following regulated contaminants to the CCR Rule:

- 1) total organic carbon
- 2) bromate
- 3) chloramines
- 4) chlorine
- 5) chlorine dioxide
- 6) chlorite
- 7) haloacetic acids

- ▶ The standard health effects language for fluoride in the current CCR regulations is revised to be identical to the health effects language required for violation of the fluoride MCL in the PN Rule.
- ▶ The recordkeeping requirement for community water systems specified in 40 CFR 141.155(h), Report Delivery and Recordkeeping, of the current CCR regulation is revised. Community water systems will be required to retain copies of its CCR for three years instead of five years.

Table 3 summarizes the information added to Appendix A of the CCR Rule for fluoride and the seven Stage 1 D/DBP regulated contaminants.

Changes to 40 CFR Part 141

The revised PN Rule consolidated several ongoing public notification requirements into the new public notification regulations in Subpart Q of 40 CFR Part 141. The final Subpart Q now provides in one place a complete and easily referenced set of public notification requirements. The amendments to various provisions in 40 CFR Part 141 included changing the public notification references to the new Subpart Q and modifying the language to be consistent with the final public notification regulations. These changes did not substantively alter the existing requirements. Table 4 summarizes the changes made to 40 CFR Part 141.

**Table 3 - Summary of Changes to the CCR Rule:
Appendix A - Regulated Contaminants**

Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Microbiological Contaminants						
Total organic carbon (ppm)	TT	-	TT	n/a	Naturally present in the environment	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.
Inorganic Contaminants						
Fluoride (ppm)	4	-	4	4	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.
Bromate (ppb)	0.010	1000	10	0	By-product of drinking water chlorination	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
Chloramines (ppm)	MRDL = 4	-	MRDL = 4	MRDLG = 4	Water additive used to control microbes	Some people who use water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.

**Table 3 - Summary of Changes to the CCR Rule:
Appendix A - Regulated Contaminants**

Contaminant (units)	traditional MCL in mg/L	to convert for CCR, multiply by	MCL in CCR units	MCLG	Major Sources in Drinking Water	Health Effects Language
Chlorine (ppm)	MRDL = 4	-	MRDL = 4	MRDLG = 4	Water additive used to control microbes	Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorite (ppm)	1	-	1	0.8	By-product of drinking water chlorination	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
Chlorine dioxide (ppb)	MRDL = .8	1000	MRDL = 800	MRDLG = 800	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.
Volatile Organic Contaminants						
Haloacetic Acids (HAA) (ppb)	.060	1000	60	n/a	By-product of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

Table 4 - Summary of Other Changes to CFR to Be Consistent With The Final Public Notification Rule (Part 141, Subpart Q)

CFR Section	Subject	Subpart Q Reference (where applicable)	Change
§141.6(c), §141.6(g) Effective dates	“The regulations set forth in . . . §141.32(b)(3) and §141.32(d) shall take effect immediately upon promulgation. . . The regulations contained in §141.32(e)(16), (25-27), and (46) . . . are effective January 1, 1993.”	§141.201	Delete all reference to §141.32. Effective dates for new Subpart Q are contained in §141.201 introductory paragraph.
§141.11(d) Nitrate levels in non-community systems	“At the discretion of the State, nitrate levels not to exceed 20 mg/l may be allowed in a non-community water system if the supplier of water demonstrates. . . that (1) Such water will not be available to children under 6 months of age; and (2) There will be continuous posting of the fact that nitrate levels exceed 10 mg/l and the potential health effects of exposure; and local and State public health authorities will be notified annually of nitrate levels. . . and (4) No adverse health effects shall result.”	§141.209	Change §141.11(d)(2) to require that systems meet PN requirements under §141.209. Add new special notice (§141.209), require Tier 1 notification and the ten elements required for violations.
§141.21(g)(1) Total coliform MCL	“A public water system which has exceeded the MCL for total coliform in §141.63 must report the violation to the State no later than the end of the next business day after it learns of the violation, and notify the public in accordance with §141.32.”	§141.203 (Tier 2) and §141.204 (Tier 3)	Change reference to “§141.32” to “subpart Q.”
§141.21(g)(2) Coliform monitoring	“A public water system which has failed to comply with a coliform monitoring requirement, including the sanitary survey requirement, must report the monitoring violation to the State within ten days after the system discovers the violation, and notify the public in accordance with §141.32.”	§141.204 (Tier 3) or §141.202 (Tier 1)	Change reference to “§141.32” to “subpart Q.”
§141.22(b) Turbidity MCL	“If the monthly average of the daily samples exceeds the maximum allowable limit or if the average of 2 samples taken on consecutive days exceeds 5 NTU. . . report to the state and notify the public as directed in §141.31 and §141.32.”	§141.203 (Tier 2)	Change reference to “§141.32” to “subpart Q.”

Table 4 - Summary of Other Changes to CFR to Be Consistent With The Final Public Notification Rule (Part 141, Subpart Q)

CFR Section	Subject	Subpart Q Reference (where applicable)	Change
<p>§141.23(f)(2)</p> <p>Confirmation sample for nitrate and nitrite</p>	<p>“Where nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within 24 hours. . . Systems unable to comply with the 24-hour sampling requirement must immediately notify consumers served . . . in accordance with §141.32. . .”</p>	<p>§141.202 (Tier 1)</p>	<p>Change reference to “§141.32” to “§141.202 and meet other requirements under Subpart Q of this part.”</p> <p>Change “consumers” to “persons.”</p> <p>Add this requirement to §141.202 along with that for nitrate MCLs (item 2 of Table 1).</p>
<p>§141.23(l)(4), §141.24(f)(15)(iii), §141.24(h)(11)(iii)</p> <p>Public notice to the area affected for inorganics, VOCs, and SOCs</p>	<p>“If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the State may allow the system to give public notice to only the area served by that portion of the system which is out of compliance.”</p>	<p>Subpart Q</p>	<p>Delete these sections since parallel requirements are included in §141.201(c)(2).</p>
<p>§141.23(n)</p> <p>Inorganics MCL</p>	<p>“When the average of four analyses. . . exceeds the maximum contaminant level, the supplier of water shall notify the State pursuant to §141.31 and give notice to the public pursuant to §141.32.”</p>	<p>§141.203 (Tier 2)</p>	<p>Change “§141.32” to “Subpart Q.”</p>
<p>§141.23(o)</p> <p>Nitrate MCL</p>	<p>“ . . .When a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within 24 hours, and if the mean of the two analyses exceeds the maximum contaminant level, the supplier of water shall report his findings to the State pursuant to §141.31 and shall notify the public pursuant to §141.32.”</p>	<p>§141.202 (Tier 1)</p>	<p>Change “§141.32” to “Subpart Q.”</p>

Table 4 - Summary of Other Changes to CFR to Be Consistent With The Final Public Notification Rule (Part 141, Subpart Q)

CFR Section	Subject	Subpart Q Reference (where applicable)	Change
§141.26(a)(4) Gross alpha or total radium MCL	“If the average annual maximum contaminant level for gross alpha particle activity or total radium . . . is exceeded, the supplier . . . shall give notice to the State pursuant to §141.31 and notify the public as required by §141.32.”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”
§141.26(b)(5) Man-made radiation MCL	“If the average annual maximum contaminant level for man-made radioactivity . . . is exceeded, the supplier . . . shall give notice to the State pursuant to §141.31 and notify the public as required by §141.32.”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”
§141.30(d) TTHM MCL	“If the average of samples covering any 12 month period exceeds the Maximum Contaminant Level, the supplier of water shall report to the State pursuant to §141.31 and notify the public pursuant to §141.32.”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”
§141.63(b) Total coliform MCL (fecal positive repeat sample)	“For purposes of the public notification requirements in §141.32, this is a violation that may pose an acute risk to health.”	§141.202 (Tier 1)	Change “§141.32” to “Subpart Q.”
§141.75(a)(5)(ii) SWTR reporting requirements (unfiltered systems)	“If at any time turbidity exceeds 5 NTU, the system must inform the State as soon as possible, but no later than the end of the next business day.”	§141.203(b)(3)	Change §141.75(a)(5)(ii) to require consultation with the primacy agency after turbidity exceedance above 5 NTU, as soon as practical but no later than 24 hours in accordance with the public notification requirements under §141.203(b)(3).

Table 4 - Summary of Other Changes to CFR to Be Consistent With The Final Public Notification Rule (Part 141, Subpart Q)

CFR Section	Subject	Subpart Q Reference (where applicable)	Change
§141.75(b)(3)(ii) SWTR reporting requirements (filtered systems)	“If at any time turbidity exceeds 5 NTU, the system must inform the State as soon as possible, but no later than the end of the next business day.”	§141.203(b)(3)	Change §141.75(b)(3)(ii) to require consultation with the primacy agency after turbidity exceedance above 5 NTU, as soon as practical but no later than 24 hours in accordance with the public notification requirements under §141.203(b)(3).
§141.133(b)(1) TTHMs and HAA5 MCLs	“If the running annual arithmetic average of quarterly averages covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to §141.32. . .”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”
§141.133(b)(2) Bromate MCL	“If the average of samples covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to §141.32. . .”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”
§141.133(b)(3) Chlorite MCL	“If the arithmetic average of any three sample set exceeds the MCL, the system is in violation of the MCL and must notify the public pursuant to §141.32. . .”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”
§141.133(c)(1) Chlorine and chloramines MRDL	“If the average of quarterly averages covering any consecutive four-quarter period exceeds the MRDL, the system is in violation of the MRDL and must notify the public pursuant to §141.32. . .”	§141.203 (Tier 2)	Change “§141.32” to “Subpart Q.”

Table 4 - Summary of Other Changes to CFR to Be Consistent With The Final Public Notification Rule (Part 141, Subpart Q)

CFR Section	Subject	Subpart Q Reference (where applicable)	Change
<p>§141.133(c)(2)(i) Chlorine dioxide MRDL</p>	<p>“If any daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (or more) of the three samples. . . exceed the MRDL, the system must . . . notify the public pursuant to the procedures for acute health risks in §141.32(a)(1) (iii)(E). Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL. . .will also be considered an MRDL violation and the system must notify . . . in accordance with the provisions for acute violations under §141.32(a)(1)(iii)(E).”</p>	<p>§141.202 (Tier 1)</p>	<p>Change “§141.32(a)(1)(iii)(E)” to “Subpart Q.”</p>
<p>§141.133(c)(2)(ii) Chlorine dioxide MRDL</p>	<p>“If any two consecutive daily samples taken at the entrance to the distribution system exceed the MRDL and all distribution system samples are below the MRDL, the system. . . will notify the public pursuant to the procedures for non-acute health risks in §141.32(e)(78). Failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system . . .is also an MRDL violation and the system must notify . . . in accordance with the provisions for non-acute violations under §141.32(e)(78).”</p>	<p>§141.203 (Tier 2)</p>	<p>Change “§141.32(e)(78)” to “Subpart Q.”</p>
<p>§141.175(c)(1) IESWTR reporting requirements (filtered systems using conventional or direct filtration treatment)</p>	<p>“If at any time the turbidity exceeds 1 NTU in representative samples of filtered water in a system using conventional filtration treatment or direct filtration, the system must inform the State as soon as possible, but no later than the end of the next business day.”</p>	<p>§141.203(b)(3)</p>	<p>Change §141.175(c)(1) to require consultation with the primacy agency after turbidity exceedance above 1 NTU, as soon as practical but no later than 24 hours in accordance with the public notification requirements under §141.203(b)(3).</p>

Table 4 - Summary of Other Changes to CFR to Be Consistent With The Final Public Notification Rule (Part 141, Subpart Q)			
CFR Section	Subject	Subpart Q Reference (where applicable)	Change
§141.175(c)(2) IESWTR reporting requirements (filtered systems using other than conventional or direct filtration treatment)	"If at any time the turbidity in representative samples of filtered water exceed the maximum level set by the State under §142.173(b) for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration, the system must inform the State as soon as possible, but no later than the end of the next business day."	§141.203(b)(3)	Change §141.175(c)(2) to require consultation with the primacy agency after turbidity exceedance above the maximum level set by the State, as soon as practical but no later than 24 hours in accordance with the public notification requirements under §141.203(b)(3).

C. Use of an Annual Notice to Meet Tier 3 PN Requirements

C.1. Annual Notice by Non-Community Water Systems

A PWS must issue a notice for a Tier 3 violation or situation within 12 months of learning of the violation or situation and must issue a repeat notice annually thereafter for as long as the violation or situation exists [§141.204(b)]. Tier 3 public notices are required for testing procedure violations, monitoring violations (except for failure to test for fecal coliform or *E. coli*, or for monitoring violations where the primacy agency determines that a Tier 2 notice is required), operation under a variance or exemption, and any other violation or situation the primacy agency determines requires a Tier 3 notice. Systems have the option of providing an annual notice summarizing all Tier 3 violations occurring during the year instead of providing individual Tier 3 public notices. Given that the majority of violations require a Tier 3 public notice, EPA believes the advantages of using an annual notice for Tier 3 violations are reduced cost and more effective communication with consumers.

C.2. Annual Notice by Community Water Systems

The 1996 SDWA Amendments emphasized public accountability and disclosure to consumers of basic information about their drinking water supply. The PN and CCR Rules provide two vehicles by which consumers can obtain information about their drinking water to help them make health decisions for themselves and their families.

Annual reports issued under the CCR Rule will give consumers information on where their water comes from, what is in their drinking water, and the steps necessary to deliver safe drinking water to their homes. The CCR Rule applies only to community water systems.

The PN Rule allows a CWS to consolidate notices for all Tier 3 violations and situations occurring within a given year into an annual notice. A CWS has the option to use the CCR as an annual vehicle for the initial Tier 3 notice and all required repeat notices. States and systems should be aware that the timing and content requirements of the PN Rule are stricter than those of the CCR Rule and any Tier 3 notices inserted in the CCR must meet the PN requirements. For example, if a system chooses to include Tier 3 notices in their CCR, the system must still meet the PN requirement that public notice for Tier 3 violations be issued *no later than 12 months from the date the violation or situation occurred*. This means that the CCR is appropriate for only those violations and situations that occurred within the 12 months preceding the date the CCR is delivered to consumers. In addition, the CCR must be provided to persons served that are not necessarily only the billing customers who would receive the CCR. As specified in §141.204(d), if a CWS chooses to use the CCR for public notification, the CWS must:

- 1) Provide the CCR to all persons served no later than 12 months after the system learns of the violation as required in §141.204(b),
- 2) Distribute the CCR following the PN delivery requirements in §141.204(c), and
- 3) Meet the PN requirements for content of Tier 3 public notices under §141.205.

Section II. State Primacy Revision Applications

A. Primacy Revision Time Frame

The public notification requirements under 40 CFR Part 141, Subpart Q, became effective June 5, 2000. However, public water systems will continue to comply with the public notification requirements under §141.32 until the date the new Subpart Q regulations go into effect in their State, Territory, Tribe, or the District of Columbia. Public water systems in areas where EPA directly implements the drinking water program (Wyoming, Washington DC, and on Indian lands) were required to comply with the revised PN requirements as of October 31, 2000 (180 days after publication of the final rule in the *Federal Register*). Public water systems in primacy States must comply with the final rule no later than two years from the date of publication in the *Federal Register* (May 6, 2002) or on the date the State adopted rule becomes effective, whichever is sooner.

States must submit a primacy revision application following procedures outlined in 40 CFR 142.12 (b) to (d) - Revision of State Programs, by May 6, 2002. EPA encourages States to adopt regulations and submit complete and final primacy revision application packages early to ensure timely approval. For the PN Rule, EPA recommends States submit primacy revision applications to their Regions by February 2002, three months before the required deadline. In certain circumstances, a State may be granted additional time, up to two years, to submit its primacy revision application package. An extension request must be submitted to EPA within the required two-year time frame (by May 6, 2002) for the PN Rule. Section II, C provides additional information on extension requests.

40 CFR 142, Subpart B, contains procedures for States to use as they obtain and/or update primacy for the Public Water System Supervision (PWSS) program. States (including eligible Indian Tribes) must follow these procedures to incorporate the revised public notification regulations into their approved primacy program. Under §142.10(b)(6)(v), each State, as a condition of primacy, must adopt and implement adequate procedures to require public water systems to give public notice that is no less stringent than the EPA public notification requirements.

The Primacy Rule gives States two years (until May 6, 2002) to adopt the revised PN Rule. On April 28, 1998, EPA updated the Primacy Rule to reflect modifications of the procedures for obtaining and updating primacy made by the 1996 SDWA Amendments (63 *FR* 23361). The updated Primacy Rule codified the new process for granting primary enforcement to States while their applications to modify primacy programs are under review (interim primacy). The updated Primacy Rule outlined the timing, process, and contents of the State request for approval of all program revisions to adopt new and revised regulations. New Section 142.12(e) explains that any State already having primacy for all existing NPDWRs is considered to have interim primacy for a new or revised regulation. This interim enforcement authority begins on the date the primacy

revision application is submitted in complete and final form or the effective date of the new or revised State regulation, whichever is later, and ends when EPA makes a final determination. The Primacy Rule also increased the time for a State to adopt a new or revised Federal regulation from 18 months to two years.

A.1 Combining the PN and CCR Rules into One Primacy Revision Application Package

States may combine or bundle primacy revision applications for any drinking water regulations. The PN and CCR Rules are good candidates for bundling because the rules have parallel requirements and bundling may reduce the burden of the primacy revision process.

Examples of parallel requirements in both the PN and CCR Rules include: 1) the same mandatory language to describe potential health effects of violations, 2) the requirement to incorporate multilingual information for a large proportion of non-English speaking residents, 3) the requirement to provide information on unregulated contaminant monitoring data, and 4) the requirement to inform consumers if a PWS is operating under a variance or exemption. Additional areas of overlap, excluding content provisions, include the requirements to adopt the rule as a condition of primacy and for systems to provide certifications of compliance to the State.

States may find submission of a combined primacy application package advantageous because of the reduced paperwork and additional time to develop policies and procedures for similar provisions of both rules. Any State that wanted to bundle the PN and CCR Rules was required to submit either the combined primacy revision application package or a request for an extension by August 21, 2000 - the required submission date for CCR primacy revision applications. EPA recognizes that promulgation of the PN Rule did not occur in sufficient time for some States to bundle both rules and follow the regulatory process dictated by their State laws.

For those States that submitted an extension request by August 21, 2000, a combined primacy application package must address each of the six elements of a primacy revision application package described in Section II, E. Of those six elements, States would only have to submit one State primacy revision checklist, one reporting and recordkeeping checklist, and one Attorney General's statement that addresses both rules. Appendix B provides an example format for a combined primacy revision application package. For States that choose to adopt and submit a separate primacy revision application for the PN Rule, the process detailed in the regulations described in Section II, A and B must be followed.

B. State Program Revision - Review Process

EPA recommends a two-step process including submission of an optional draft and a required complete and final request for program approval. The State and Region should agree to a plan and timetable for submitting the State primacy revision application as soon as possible after rule promulgation.

Draft Request - At its option, the State may submit a draft request for EPA review and tentative determination. The request should contain drafts of all required primacy application materials. EPA recommends that a draft request be submitted within 9 months after rule promulgation or by February 2001. EPA will make a tentative determination within 90 days on whether the draft request is approvable and list any changes that must be made before approval.

Complete and Final Request - This submission must be in accordance with 40 CFR 142.12(c)(1) and(c)(2) and include an Attorney General's statement of enforceability. Submission of a final request that is not preceded by a draft request may result in EPA requiring changes to final State regulations or policies.

The Primacy Rule specifies that rule adoption and submission of a primacy revision application should occur within 2 years after promulgation of the PN Rule (by May 6, 2002). However, EPA suggests that States submit a primacy revision application early (by February 2002) to allow time for any changes needed to make the application "complete and final." This will ensure that States will have interim primacy within 24 months and will prevent States from becoming backlogged with primacy revision applications to adopt future federal requirements.

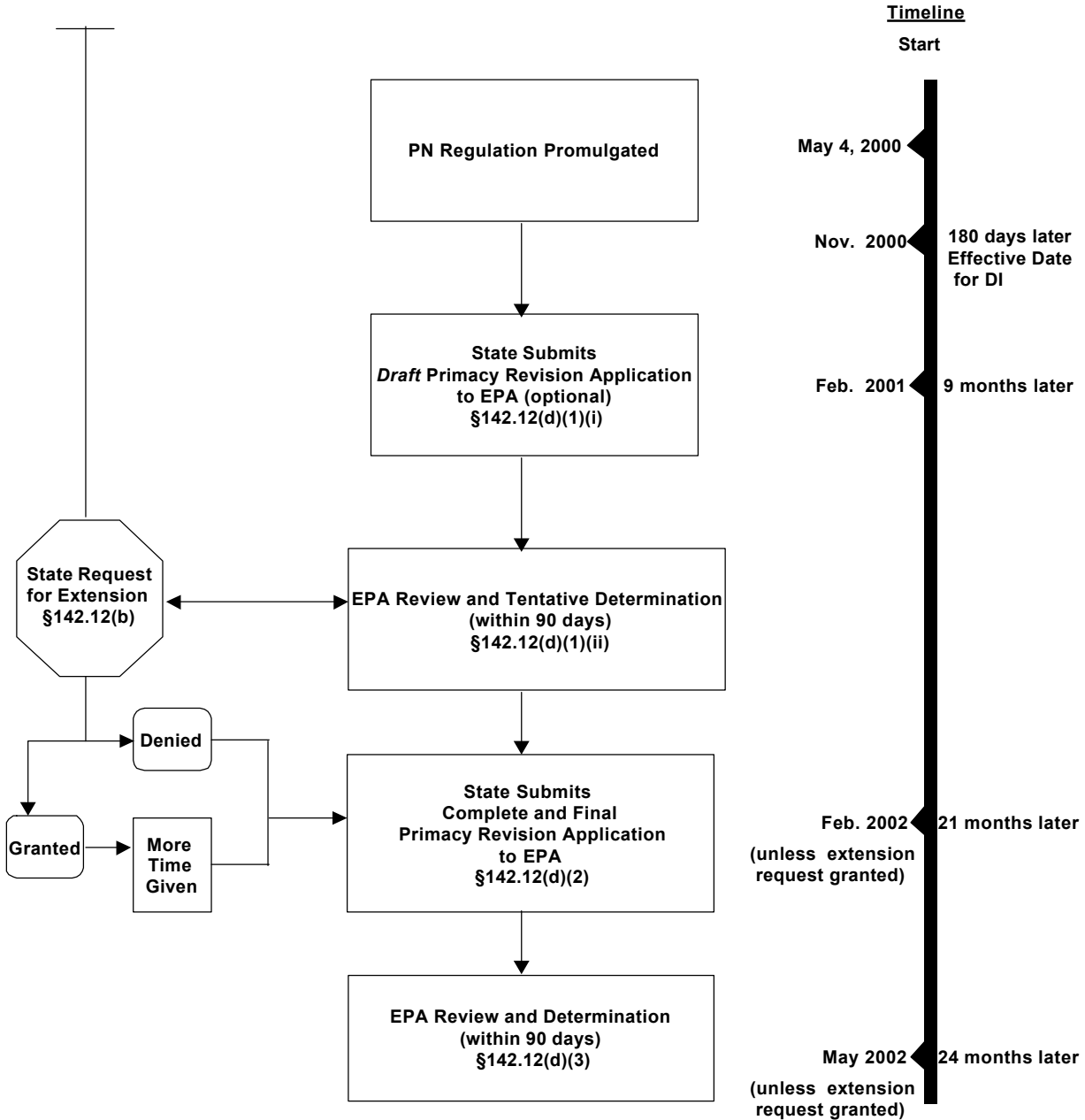
Final Review Process - Once a State application is complete and final, EPA has a regulatory (and statutory) deadline of 90 days to review and either approve or disapprove the revised program. The Office of Ground Water and Drinking Water (OGWDW) will conduct detailed reviews of the first State package submitted to each Region. The Regions should submit their comments with the State package for Headquarters review. Where the Regional review has identified all significant issues, Headquarters will waive the review on the remainder of PN Rule applications in that Region. OGWDW reserves the right to review additional packages for cause. Because the drinking water rules can be complex and raise significant implementation and enforcement issues, Regions are encouraged to consult with Headquarters even on subsequent packages, where the revision contains novel language or unique positions which may impact the national program. The Office of General Counsel (OGC) and the Office of Enforcement and Compliance Assurance (OECA) will not directly review the packages, but will depend on the Office of Regional Counsel (ORC) to conduct detailed reviews.

In order to meet the 90-day deadline for packages undergoing Headquarters review, the review period will be equally split giving the Regions and Headquarters each 45 days to conduct their respective reviews. For the first package in each Region, Regions should forward copies of the primacy revision applications that require Headquarters review to the Implementation and Assistance Division in OGWDW, which will take the role of coordinator of Headquarters review. For all Headquarters reviews, the Regions should send the package to Headquarters as early in the process as possible. Headquarters asks that Regions forward their comments with the primacy revision application.

Figure 2 on the next page diagrams the process and timing for State program revisions.

Figure 2

Review Process for State Request for Approval of Program Revisions for the PN Rule



C. State Program Revision - Extension Procedures

Under §142.12(b), States may request that the two-year deadline for submitting the complete and final request for EPA approval of program revisions be extended for up to two additional years in certain circumstances. The extension request must be submitted to EPA within two years of rule promulgation. States can request an extension for the primacy revision process by submitting a written application to the Regional Administrator, who is delegated authority to approve extension requests. Headquarters concurrence is not required.

For an extension to be granted, the State must demonstrate that it is requesting the extension because it cannot meet the original deadline for reasons beyond its control, despite a good faith effort. The extension application must include a schedule for the submission of a complete and final primacy revision application by a certain time and sufficient information to demonstrate why the State cannot meet the original two-year deadline. The State's proposed schedule for submission of its complete and final request for approval of a revised primacy program is a critical part of the extension application. Table 5, "State Program Revision Extension Procedures," gives the requirements and time frame for States that wish to request an extension to the primacy revision process.

If an extension is granted, the Region and State will negotiate certain conditions that could be met during the extension period. These conditions will be determined during the extension approval process and are decided on a case-by-case basis. The conditions must be included in a Memorandum of Understanding (MOU) between the State and the EPA Regional office. The MOU should cover all aspects of PN Rule implementation, enforcement, and reporting to EPA's Safe Drinking Water Information System (SDWIS). Conditions of an MOU may include:

- Informing PWSs of the new EPA (and upcoming State) requirements and providing technical assistance;
- Collecting, storing, and managing laboratory results, public notices, and other compliance and operation data required by EPA regulations;
- For States whose request is based on a current lack of program capability adequate to implement the new requirements, taking steps agreed upon by the Region and State during the extension period to remedy the deficiency; and
- Providing the Region with all the information required under §142.15 on State reporting.

Table 6, "Extension Request Checklist," provides a checklist the Region can use to review State extension requests.

Table 5 - State Program Revision Extension Procedures

EPA/State Action	Time Frame
<p>1. Under 40 CFR 142.12(b)(2), the State extension request must:</p> <p>1) Include a schedule for the submission of a final request by a certain time; and</p> <p>2) Provide sufficient information to demonstrate (a) and (b) below:</p> <p>(a) The State cannot submit a package because of one of the reasons below:</p> <ul style="list-style-type: none"> ▶ Currently lacks the legislative or regulatory authority to enforce the new or revised requirement; or ▶ Currently lacks the program capability adequate to implement the new or revised requirements; or ▶ Is requesting the extension to group two or more program revisions in a single legislative or regulatory action. <p>(b) The State is implementing the requirements to be adopted by the State in its program revision pursuant to 40 CFR 142.12(b)(3) within the scope of its current authority and capabilities.</p>	<p>By the primacy revision deadline of May 6, 2002</p>
<p>2. EPA Approval/Disapproval of Extension</p>	<p>Completed as soon as possible after submittal of State extension request</p>

Table 6 - Extension Request Checklist

I. Reason for State Request

- Clustering of Program Revisions
- Statutory Barrier
- Regulatory Barrier
- Lack of Program Capability
 - Insufficient Resources
 - Funding Level
 - Staffing
 - Lack of Adequately Trained Staff
 - Inadequate Procedures, Guidelines, and Policies
- Other (Please Explain)

II. Actions Taken by the State to Justify an Extension

- | | Schedule Dates (or attachments) |
|---|---------------------------------|
| <input type="checkbox"/> Seeking Increases in Program Resources | _____ |
| <input type="checkbox"/> Training Existing Personnel/Revising Training Programs | _____ |
| <input type="checkbox"/> Revising State Regulations or Statutes | _____ |
| <input type="checkbox"/> Developing Revised/New Procedures/Guidelines | _____ |
| <input type="checkbox"/> Other (Please Explain) | _____ |

III. Extension Decision

- Extension Request Approved Date ____/____/____
- Period of Extension Request ____/____/____ to ____/____/____
- Extension Request Denied Date ____/____/____
- Reason Cited: _____

IV. Conditions of the Extension

- During the extension period the State will (check all that apply):
- Inform public water systems of the new requirements and the fact that EPA will be overseeing their implementation until the State's program is approved or submitted if State qualifies for interim primacy
 - Collect and store laboratory results and other compliance data
 - Provide technical assistance to public water systems
 - Provide EPA with the information required under §142.15 of the primacy rule
 - Other (Please Explain)

D. Special State Primacy Requirements

The revised PN Rule contains ten special primacy requirements. EPA believes these requirements are very important to implementation of the PN Rule because they give States the flexibility to augment or otherwise change EPA requirements to build a more complete and effective State public notification program.

In some cases the provisions provide States with the option to tailor the EPA baseline requirements to increase program flexibility and in other cases to be more stringent than the federal rule. Adoption of these provisions is not mandatory, but for any provision a State chooses to adopt and address in the primacy revision application, the State should provide a general explanation of how it intends to implement the provision. For the purpose of satisfying primacy review, EPA does not expect a State to describe detailed technical procedures for evaluations that will be done on a case-by-case basis. Special primacy requirements for the PN Rule are listed in §142.16(a) and described below.

Section 142.16(a)(1) requires States to submit complete and final requests for approval of program revisions to adopt the revised PN requirements. In addition, it allows States to establish alternative public notification requirements with respect to the form and content of the public notice. Alternative requirements for form and content must be designed to provide the same type and amount of information as is required under Subpart Q. Primacy States must adopt the revised PN requirements or develop an alternative public notification program that provides the same type and amount of information as the Federal rule and submit its primacy revision application package or a request for an extension to EPA by May 6, 2002.

Section 142.16(a)(2) requires States to establish enforceable requirements and procedures when a State opts to add to or change the minimum requirements under:

- 1) Table 1 to 40 CFR 141.201(a) (Item 3v) – To require public water systems to give a public notice for violations or situations other than those listed in Appendix A of Subpart Q of Part 141 of the rule.
- 2) 40 CFR 141.201(c)(2) – To allow public water systems, under the specific circumstances listed in §141.201(c)(2), to limit the distribution of the public notice to persons served by the portion of the distribution system that is out of compliance.
- 3) Table 1 of 40 CFR 141.202(a) (Items 5, 6, and 8) – To require public water systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations listed in Appendix A of Subpart Q of Part 141 of the rule.
- 4) 40 CFR 141.202(b)(3) – To require public water systems to comply with additional Tier 1 public notification requirements set by the State subsequent to the initial 24-hour Tier 1 notice, as a result of their consultation with the State required under §141.202(b)(2).

- 5) 40 CFR 141.202(c), 141.203(c) and 141.204(c) – To require a different form and manner of delivery for Tier 1, 2 and 3 public notices.
- 6) Table 1 to 40 CFR 141.203(a) (Item 2) – To require the public water systems to provide a Tier 2 public notice (rather than Tier 3) for monitoring or testing procedure violations specified by the State.
- 7) 40 CFR 141.203(b)(1) – To grant public water systems an extension of up to three months for distributing the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule).
- 8) 40 CFR 141.203(b)(2) – To grant a different repeat notice frequency for the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule), but no less frequently than once per year.
- 9) 40 CFR 141.203(b)(3) – To respond within 24 hours to a request for consultation by the public water system to determine whether a Tier 1 (rather than a Tier 2) notice is required for a turbidity MCL violation under §141.13(b) or a Surface Water Treatment Rule (SWTR)/Interim Enhanced SWTR (IESWTR)/treatment technique (TT) violation due to a single exceedance of the maximum allowable turbidity limit.
- 10) 40 CFR 141.205(c)(2) – To determine the specific multilingual requirement for a public water system, including defining a “large proportion of non-English-speaking consumers.”

Note: States may assign the responsibility for the multilingual requirement determination to the water system. If a State chooses not to set its own criteria, systems must meet the general requirement set in the rule, which is to provide such information when appropriate.

Section III provides further discussion of how States may choose to meet each special primacy requirement.

E. General State Primacy Requirements

Each primacy revision application should contain the documents described below. Appendix A of this guidance contains example formats that can be used for a State Primacy Revision Application package for the PN Rule.

E.1. State Primacy Revision Checklist

The application should contain a checklist of program elements, taken from 40 CFR 142.10. In completing this checklist, the State must identify the program elements that it has revised in response to new federal requirements. The State should mark a “Yes” or “No” in the column next to the list of program elements. If a State indicates “Yes,” EPA asks that they include the specific information/documentation relative to these changes. During the application review process, EPA will insert its findings and comments in the third column.

E.2. Text of the State’s Regulation

Each primacy application package must include the text of the State’s regulation.

E.3. Primacy Revision Crosswalk

The Primacy Revision Crosswalk identifies the State’s statutory or regulatory provisions that correspond to each federal requirement under 40 CFR 141. If the State’s provisions differ from the federal requirements, EPA asks the State to explain how their requirements are “no less stringent.” The Primacy Revision Crosswalk for the PN Rule should be completely filled out and annotated as necessary.

E.4. Checklist of State Reporting and Recordkeeping Policies

The application should contain a checklist of State reporting and recordkeeping requirements. States can use this checklist to explain how State reporting and recordkeeping requirements are consistent with federal requirements for recordkeeping, 40 CFR 142.14, and reporting, 40 CFR 142.15. If State requirements are not the same as federal requirements, the State can use this checklist to explain how their requirements are “no less stringent.”

E.5. Special Primacy Requirements

The application should contain a summary of how a State will address each special primacy requirement identified in 40 CFR 142.16. Section III provides further discussion of how States may choose to meet each special primacy requirement.

E.6. Attorney General’s Statement of Enforceability

The application must contain an Attorney General’s Statement that the State regulations have been duly adopted and can be enforced by the State government.

Section III. Special Primacy Requirements of the Public Notification Rule

This section contains guidance States can use when addressing the ten special primacy requirements listed in §142.16(a)(2) of the PN Rule. As part of a State's revised primacy program, the State must establish enforceable requirements and procedures to meet each special primacy requirement identified in §142.16(a)(2) which the State chooses to adopt. For the areas of State flexibility listed in §142.16(a)(2) which a State chooses to adopt, a State has the option of: 1) identifying in the crosswalk modifications to the Federal rule consistent with §142.16(a); or 2) describing in its primacy revision application the criteria it will use to make allowed modifications on a case-by-case basis.

EPA believes these special primacy requirements are very important to implementation of the PN Rule. These provisions give States the flexibility to augment or otherwise change the federal requirements to build a more complete and effective State public notification program. In some cases the provisions provide States with the option to tailor the EPA baseline requirements to increase program flexibility and in other cases to be more stringent than the federal rule. Adoption of these provisions is not mandatory, but for any provision a State chooses to adopt and address in the primacy revision application, the State should provide a general explanation of how it intends to implement the provision. For the purpose of satisfying primacy review, EPA does not expect a State to describe detailed technical procedures for evaluations that will be done on a case-by-case basis.

Six of the ten special primacy requirements listed in §142.16(a)(2) describe scenarios under which States may elect to be more stringent than the federal rule. For those provisions, EPA requires States to provide a general explanation of how the State will address the provision. EPA is not asking States to provide specific and detailed justification for the scenarios in which they elect to be more stringent than the Federal rule. States are free to establish requirements that are more stringent than the EPA program without including them in their approved primacy program.

States should note that, in several sections, the guidance makes suggestions and offers alternatives that go beyond the minimum requirements indicated by reading the subsections of §142.16. EPA does this to provide States with information and/or suggestions that may be helpful to States' implementation efforts. Such suggestions may be prefaced by "may" or "can" and are considered to be advisory. They are not required elements of States' applications for program revision.

A description of each special primacy requirement listed in §142.16(a) is given on the following pages.

A. §142.16(a)(2)(i) - Requiring Public Notice for Violations or Situations Other Than Those Listed in Appendix A of the PN Rule [141.201(a) (Table 1, Item 3v)]

A State must provide additional information if they require public water systems to give a public notice for violations or situations other than those listed in Appendix A of Subpart Q of Part 141 of the rule.

Guidance

The PN Rule allows States to determine if there are violations or other situations not listed in Appendix A of the rule that should require public notice due to the potential for serious adverse effects on human health. EPA expects that States will wish to use this flexibility to tailor their programs to respond to their unique public notification policies and situations.

A State has the option of identifying in its rules the other violations and situations that may require notice. For example, a State may specify in its rules that a public notice must be issued if the State determines that circumstances exist which may present a potential danger to drinking water consumers, based on information from the water system or other sources. Circumstances could include but are not limited to source contamination, spills, accidents, natural disasters, conditions found during an inspection or sanitary survey, or breakdowns in treatment. A State may also choose to make such determinations on a case-by-case basis. In that circumstance, the State may explain in their primacy revision application either the conditions or process by which the State would require notice. The explanation could be a general statement of the States' intention to require water systems to issue a Tier 1 public notice for other violation or situations, not listed in Appendix A of the PN Rule, with significant potential to have serious adverse health effects from short-term exposure. Evaluation of any violation or situations would be conducted by the State on a case-by-case basis, using the potential danger to drinking water consumers as one criterion.

B. §142.16(a)(2)(ii) - Limited Distribution of Public Notice to Persons Served by the Portion of the Distribution System that is Out of Compliance [141.201(c)(2)]

A State must provide additional information if they allow public water systems, under the specific circumstances listed in §141.201(c)(2), to limit the distribution of the public notice to persons served by the portion of the distribution system that is out of compliance.

Guidance

The PN Rule requires systems to provide public notice to persons served system-wide within a specified timeframe. However, the PN Rule allows States to grant exceptions to the system-wide notice obligation where the violation is clearly contained

within a portion of the distribution system that is either physically or hydraulically isolated from the rest of the distribution system. In those two specific circumstances, States have the flexibility to allow systems to limit the distribution of the public notice to persons served by the portion of the system that is out of compliance. Unless States provide systems with this determination in writing, systems must distribute the notice to persons served by the entire system.

If a State chooses to exercise this flexibility, the State should explain in their primacy revision application how the determination to grant exceptions to the system-wide distribution requirement will be made. For example, if a State opts to make this determination on a case-by-case basis then it should explain that each case will be evaluated on the two regulatory criteria specified in the PN Rule. In order to meet the criterion for physical isolation, a system must show that the affected portion of the distribution system is separated from other parts of the distribution system with no interconnections. Because of the physical separation, elevated contaminant levels contained in only that portion of the system would have no bearing on contaminant levels in a separate area of the system. To meet EPA's criterion for hydraulic isolation, a system must show that design of the distribution system and/or system operation created a situation where water in the affected portion is effectively isolated from the water in all other parts of the distribution system because of projected water flow patterns and water pressure zones.

C. §142.16(a)(2)(iii) - Which Violations or Situations Require a Tier 1 Public Notice [141.202(a) (Items 5, 6, and 8 of Table 1)]

A State must provide additional information if they require public water systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations listed in Appendix A of Subpart Q of Part 141 of the rule.

This special primacy requirement addresses State flexibility to require systems to give a Tier 1 public notice (rather than a Tier 2 or Tier 3 notice) for violations or situations not explicitly listed by EPA in Appendix A of the PN Rule as requiring Tier 1 notice. EPA authorized and expects States to elevate either violations or situations when necessary to protect public health. State flexibility to elevate the status of a violation to Tier 1, EPA believes, is critical to the successful implementation of the PN Rule. Therefore, EPA anticipates that most States will respond to this special primacy requirement in their primacy revision applications.

The PN Rule identified the following three situations where States may exercise flexibility to require a Tier 1 notice:

- 1) Violation of the turbidity MCL, under §141.13(b), where the State determines after consultation whether a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation [141.202(a)-Item 5 of Table 1].

- 2) Violation of the SWTR or , treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit (as identified in Appendix A) [141.202(a)-Item 6 of Table 1]
- 3) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure [141.202(a)-Item 8 of Table 1].

Although EPA recognizes that the majority of situations are best determined on a case-by-case basis, the Agency believes there are certain situations that should be elevated to Tier 1 status. All Tier 2 violations with significant potential to cause serious adverse health effects as a result of short-term exposure should be elevated to Tier 1 status. For example, EPA believes violations of the maximum turbidity level are serious situations requiring immediate consultation to determine the best course of action. In some cases, violation of the maximum turbidity level, combined with other site-specific information, might indicate that pathogens may have passed through to the finished water. In those situations, the public needs to be alerted quickly to the high potential for short-term health risk. However, EPA does not believe that all maximum turbidity excursions will require a Tier 1 notice and expects States to evaluate the merits of each case during the consultation.

Since turbidity exceedance by itself, without other supporting information, has not been shown to date to be a predictable indicator of pathogen loading in the finished water, EPA expects most turbidity exceedances will require a Tier 2 notice. A single exceedance of the maximum allowable turbidity limit, although a treatment technique violation, may also prove to be a false reading because of a testing equipment malfunction. For these reasons, EPA classified all turbidity violations as Tier 2, but added the new requirement that PWSs consult with the State within 24 hours when exceedances of the maximum allowable turbidity limit occur. After consultation with the system, a State could direct the system to issue a Tier 1 notice. EPA believes the requirement for immediate consultation for these situations will ensure that Tier 1 notices will be required when supported by the evidence. If a system cannot consult with the State within the 24-hour time period, the rule requires an automatic Tier 1 notice.

In addition to violations of the maximum allowable turbidity limit, EPA recognizes that there may be other violations or situations where elevation to a Tier 1 notice may be required. For example, a Total Coliform Rule (TCR) or SWTR violation may create a significant and immediate health risk. In those situations, a Tier 1, 24-hour public notice is necessary to immediately alert consumers to the potential risk rather than a Tier 2 notice.

A State can identify in its rules the violations or other situations not listed in Appendix A of the PN Rule that would require Tier 1 notice or describe the criteria it will use to make that determination on a case-by-case basis in its primacy revision application. EPA is not asking States to provide specific and detailed justification for the scenarios in which the State elects to be more stringent than the Federal rule. Rather, a general description of either the conditions or process by which the State would make the determination to elevate to Tier 1 status is sufficient. For example, a State may explain that the determination to elevate to Tier 1 will be made on a case-by-case basis because

the potential health risk associated with some violations or situations are dependent on a combination of factors. Some factors that might play into the decision-making process to elevate a turbidity violation include but are not limited to: if turbidity is significantly higher than the limit; if turbidity is above the limit for multiple measurements; what type of treatment occurs after the turbidity measuring point; and whether the source water quality is good. In addition the type of system, limits the system is subject to, and the type of filtration need to be considered.

D. §142.16(a)(2)(iv) - Requiring Additional Public Notice for Tier 1 Violations [141.202(b)(3)]

A State must provide additional information if they require public water systems to comply with additional Tier 1 public notification requirements set by the State subsequent to the initial 24-hour Tier 1 notice, as a result of the water system's consultation with the State required under §141.202(b)(2).

Guidance

EPA believes Tier 1 violations have a significant potential to cause serious adverse health effects from short-term exposure and has mandated consultation between the water system and the State. Systems have 24 hours after learning of the violation to initiate consultation with the State and determine if the State will establish subsequent public notification requirements. Systems must comply with any additional public notification requirements established during that consultation. This special primacy requirement addresses State flexibility to determine under what circumstances additional public notice should be given by the system to make sure all persons served are informed of the seriousness of the violation.

EPA encourages States to require additional notice in situations where: 1) there was inadequate delivery of the initial notice, 2) special populations need to be informed, and 3) the system returned to compliance. For example, if the methods used to deliver Tier 1 public notice were insufficient, inadequate, or inappropriate, additional notices may be necessary to reach other persons served who may not have seen the initial notice and to emphasize the seriousness of the public health risk from drinking the water. Additional notices may also be needed if new information becomes available, or to target special populations such as hospitals, schools, day-care facilities and/or other healthcare professionals. A supplemental notice announcing that the violation has been resolved and the risk from the drinking water has been abated can bring closure to the emergency situation. Although the final rule does not require systems to send such notice, EPA believes it is a good idea.

Additional notice requirements may also address the timing, manner, frequency, and content of repeat notices as well as other actions designed to reach all persons served. EPA expects States to use this authority to ensure effective, enforceable follow-up to the initial Tier 1 notice. In order to satisfy this special primacy requirement, a State has the option of identifying in its rules specific situations where additional notice would be required. If States wish to address this on a case-by-case basis, States should explain

how they would establish procedures to determine when additional notice is needed and to require systems to comply with the additional notification requirements in their privacy revision applications.

E. §142.16(a)(2)(v) - Different Form, Manner, and Delivery for Tier 1, 2, and 3 Public Notices [141.202(c), 141.203(c), & 141.204(c)]

A State must provide additional information if they allow systems to use a different form and manner of delivery for Tier 1, 2 and 3 public notices not already listed in EPA's rule.

Guidance

Under the rule, a PWS must use at a minimum one of the delivery methods specified for the appropriate Tier and use any additional methods “reasonably calculated” to reach all persons served. This means that water systems have a responsibility to use any method reasonably calculated to reach other persons served by the system if they would not be reached by minimum methods specified in the rule. This special primacy requirement addresses State flexibility to approve in writing the use of a substitute delivery method not already listed in the PN Rule. EPA recognizes the need to tailor any additional methods of delivery used to the specific situation and believes States will make this determination on a case-by-case basis. For example, the minimum list of delivery methods (broadcast media, posting, and hand delivery) may be too limiting and inappropriate for some Tier 1 situations. Additional methods a State may wish to substitute include newspaper, postal patron mailings, e-mail or priority mail.

A State has the option of identifying in its rules the alternate form and manner requirements or describing, in its primacy revision application, the criteria it will use to make that determination on a case-by-case basis.

F. §142.16(a)(2)(vi) - Requiring Tier 2 Public Notice (Rather Than Tier 3 Notice) for Specific Monitoring or Testing Procedure Violations [141.203(a)]

A State must provide additional information if they plan to require public water systems to provide a Tier 2 public notice (rather than Tier 3) for monitoring or testing procedure violations specified by the State.

Guidance

Under the PN Rule, States can determine that a Tier 2 public notice (rather than a Tier 3 notice) is required for certain violations of monitoring and testing procedure requirements. This special primacy requirement gives States the flexibility to address cases where persistent monitoring violations could disguise potentially serious drinking water quality violations and the lack of a timely notice may pose a risk to public health.

A State has the option of identifying in its rules the specific monitoring and testing procedure violations listed in Appendix A of the rule that require Tier 2 notice or describing the criteria it will use to make that determination on a case-by-case basis in its primacy revision application. Criteria may include but are not limited to potential health impacts and the persistence of the violation. EPA expects States to build this additional authority into their approved programs to ensure that notices for monitoring violations posing potential serious adverse health effects are delivered within 30 days. EPA is not asking States to provide specific and detailed justification for the scenarios in which the State elects to be more stringent than the Federal rule. Rather a general description of either the conditions or process by which the State would make the determination to elevate to Tier 2 status is sufficient.

G. §142.16(a)(2)(vii) - Extending the Initial Tier 2 Public Notice Distribution Deadline [141.203(b)(1)]

A State must provide additional information if they plan to grant public water systems an extension up to three months for distributing the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule).

Guidance

The PN Rule allows States, in appropriate circumstances, to extend the time period of the Tier 2 initial notice from 30 days up to three months. This special primacy requirement addresses State flexibility to determine when deviations from the minimum required timeframe for Tier 2 notices are warranted. These determinations must be made in writing.

Circumstances that may warrant an extension include but are not limited to: coordination with billing cycles and return to compliance. An extension for up to three months may allow a system to include the initial notice in the same mailing as the quarterly bill. For violations that were quickly resolved and no longer pose any risk to persons served (e.g., some TCR and SWTR violations), an extension may be appropriate so the system can report a return to compliance.

Although there may be a number of reasons to grant an extension, there are two circumstances where EPA believes extending the Tier 2 deadline is clearly inappropriate: 1) extensions for unresolved violations posing potential risk from short-term exposure (i.e., unresolved TCR or SWTR violations), and 2) “across-the-board” extensions or reductions in the repeat notice frequency for all other violations, (i.e., blanket extensions for all violations of a certain type, e.g., all VOC MCL violations). EPA strongly believes that in order to meet the public health objectives of the PN Rule, the Tier 2 deadline of 30 days is sufficient for water systems to notify their consumers of unresolved violations with potential for serious risk. EPA does not intend for extensions to be automatic, but to be reviewed on a case-by-case basis. Therefore, EPA views blanket extensions as contrary to the goals of the rule.

Note: *This special primacy requirement applies only to extensions of the Tier 2 notice deadline. The rule gives States broad flexibility to deviate from the required timeframe. This includes being more stringent than the rule. For example, if a State wants to keep the deadline for monthly coliform violations at 14 days instead of 30 days that is acceptable. A State does not need to submit documentation when shortening the timeframe.*

A State may identify in its rules the appropriate circumstances under which the Tier 2 notice distribution deadline may be extended or describe the criteria it will use to make that determination on a case-by-case basis in its primacy revision application.

H. §142.16(a)(2)(viii) - Extending the Tier 2 Notice Repeat Frequency [141.203(b)(2)]

A State must provide additional information if they grant a different repeat notice frequency for the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule), but no less frequently than once per year.

Guidance

The PN Rule gives States the flexibility to allow in writing a less frequent repeat notice frequency than every three months (but no less than once per year) for unresolved Tier 2 violations. However, the final rule specifically disallows less frequent repeat notices for unresolved violations posing potential risk from short-term exposure (e.g., unresolved TCR violations or treatment technique violations under the SWTR or IESWTR rules) or for all unresolved violations of a certain violation type. The State can require a different repeat notice frequency for the Tier 2 public notice (to be no less frequent than once per year), for appropriate circumstances defined in the State's primacy program. Similar to extending the Tier 2 initial notice distribution deadline, a State may identify in its rules the circumstances under which extensions may be given or describe the criteria it will use to make that determination on a case-by-case basis in its primacy revision application.

I. §142.16(a)(2)(ix) - Requiring a Tier 1 Public Notice (Rather Than Tier 2 Notice) for a Turbidity MCL Violation under §141.13(b) or a SWTR/IESWTR TT Violation Due to a Single Exceedance of the Maximum Allowable Turbidity Limit [141.203(b)(3)]

A State must provide information on any process developed to respond within 24 hours to a request for consultation by the public water system to determine whether a Tier 1 (rather than a Tier 2) notice is required for a turbidity MCL violation under §141.13(b) or a SWTR/IESWTR TT violation due to a single exceedance of the maximum allowable turbidity limit.

Guidance

This special primacy requirement addresses the ability of the State to respond within 24-hours to a request for consultation by a PWS to determine whether a Tier 1 notice is required for a turbidity violation under §141.13(b) or a SWTR/IESWTR TT violation due to single exceedance of the maximum allowable turbidity limit. If a system cannot consult with the State within the 24-hour time period, the rule requires an automatic Tier 1 notice.

EPA believes the ability of a State to respond to a system's request for consultation is critical to the successful implementation of the PN Rule. EPA expects States to establish a process that would lead to determination within the 24-hour window to avoid a "no action" default to a Tier 1 notice on every turbidity single exceedance violation. As discussed for special primacy requirement §142.16(a)(2)(iii), EPA believes violations of the maximum turbidity level are serious situations requiring immediate consultation to determine the best course of action. EPA does not believe that all turbidity excursions will require a Tier 1 notice and expects States to evaluate the merits of each case during the consultation.

In order to address this special primacy requirement, a State should describe the process it has developed to respond within the 24-hour time frame to a PWS request for consultation. Some States already have emergency hotlines for systems to use.

J. §142.16(a)(2)(x) - Multilingual Notice Requirement [141.205(c)]

A State must provide additional information if they determine the specific multilingual requirement for a public water system, including defining "large proportion of non-English-speaking consumers."

Guidance

The PN Rule requires systems serving a large proportion of non-English speaking consumers, as determined by the State, to include in their notices, in the appropriate languages, information on the importance of the notice or a telephone number or address where persons served may contact the water system to obtain a translated copy of the notice or to request assistance in the appropriate languages. This special primacy requirement addresses State flexibility to determine the specific multilingual requirement for systems, including defining a large proportion of non-English speaking populations.

States can choose to set their own criteria for determining whether there is a large proportion of non-English speaking consumers. For example, a State could specify a population threshold such as 10 percent, so that when over 10 percent of the population served use a language or languages other than English as their first language, multilingual information must be included in the notice. If a State chooses not to set its own criteria, water systems must meet the general requirement set in the rule, which is providing such information when appropriate. Information on whether there is a significant

non-English speaking population in a community can be found through the U.S. Census Bureau's website at factfinder.census.gov.

EPA strongly encourages the use of multilingual notification if non-English speaking populations are in the system's service area, whether or not there is a large proportion of non-English speaking people, because public notification of drinking water violations and other situations is an important means of protecting public health. Although full translations of notices are not required, EPA strongly encourages systems to go beyond the minimum multilingual requirements in the rule, particularly for Tier 1 notices and other situations that pose a serious health risk, and provide a translated copy of the notice on request or offer telephone assistance in the appropriate language. The *Public Notification Handbook* issued with the rule contains additional hints on implementing this requirement.

A State has the option of identifying in its rule the more specific multilingual requirement or describing the criteria it will use to make such determinations on a case-by-case basis in its primacy revision application.

Section IV. PN Violation Determination and SDWIS Reporting

A. PN Violation Determination

One of the important keys to making the public notification process work is the timely and complete reporting of PN violations by the States. A 1992 review of the public notification process by the General Accounting Office (GAO) provided strong evidence that the program was not working as intended. Problems cited included: high rates of non-compliance, even when contaminants pose a health risk; limited non-compliance tracking by both EPA and the States; and the complexity of the rule. In order to address those problems, EPA revised the public notification regulatory requirements to be less complex, clear, and self-implementing. EPA believes these streamlined requirements will encourage more water systems to comply with the rule and will be less burdensome than the current rule for State tracking and reporting of violations. However, the program will not succeed without compliance monitoring and follow-up actions by the State and EPA.

Flowcharts 1, 2, and 3 starting on the next page provide timelines for actions PWSs must take under the PN Rule, once a system learns of a Tier 1, 2, or 3 violation.

A.1. What are the PN Violations?

The trigger point for public notification is when a system learns that a violation or other situation posing a health risk exists. From that point on, the rule prescribes specific time lines a PWS must meet to: 1) distribute the notice to persons served, 2) provide the State with a representative copy of the initial and any repeat notices, and 3) certify to the State that all applicable PN requirements were met. The rule also prescribes the form, manner, and content of the public notices. Failure of the PWS to take any of those actions indicates a PN violation.

A PN violation occurs when the system fails to provide notice of a violation or situation following the requirements for time, form, manner, and delivery prescribed in the rule.

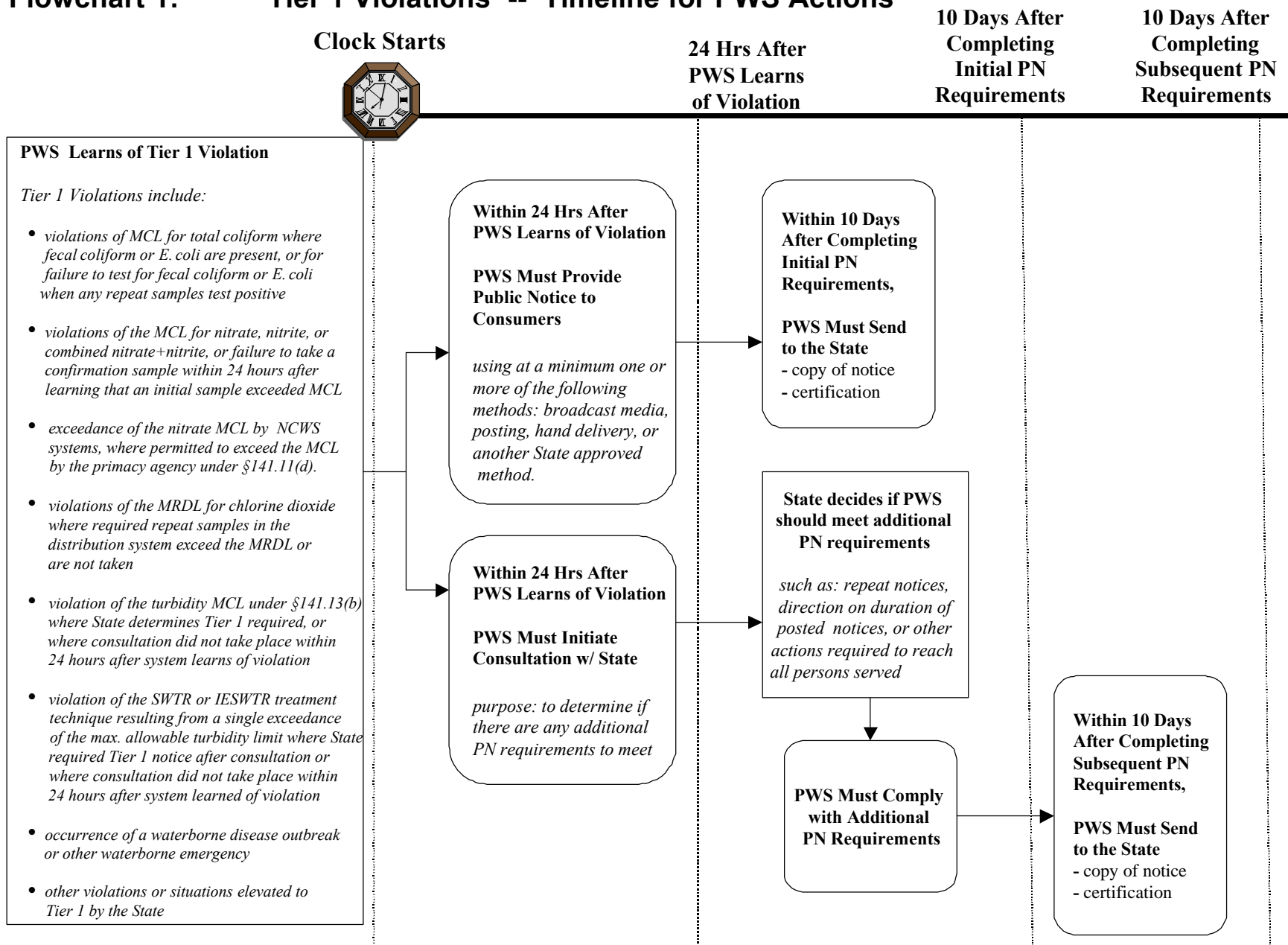
A system can incur a PN Rule violation for failing to:

- ▶ Prepare and deliver public notice in accordance with the rule.

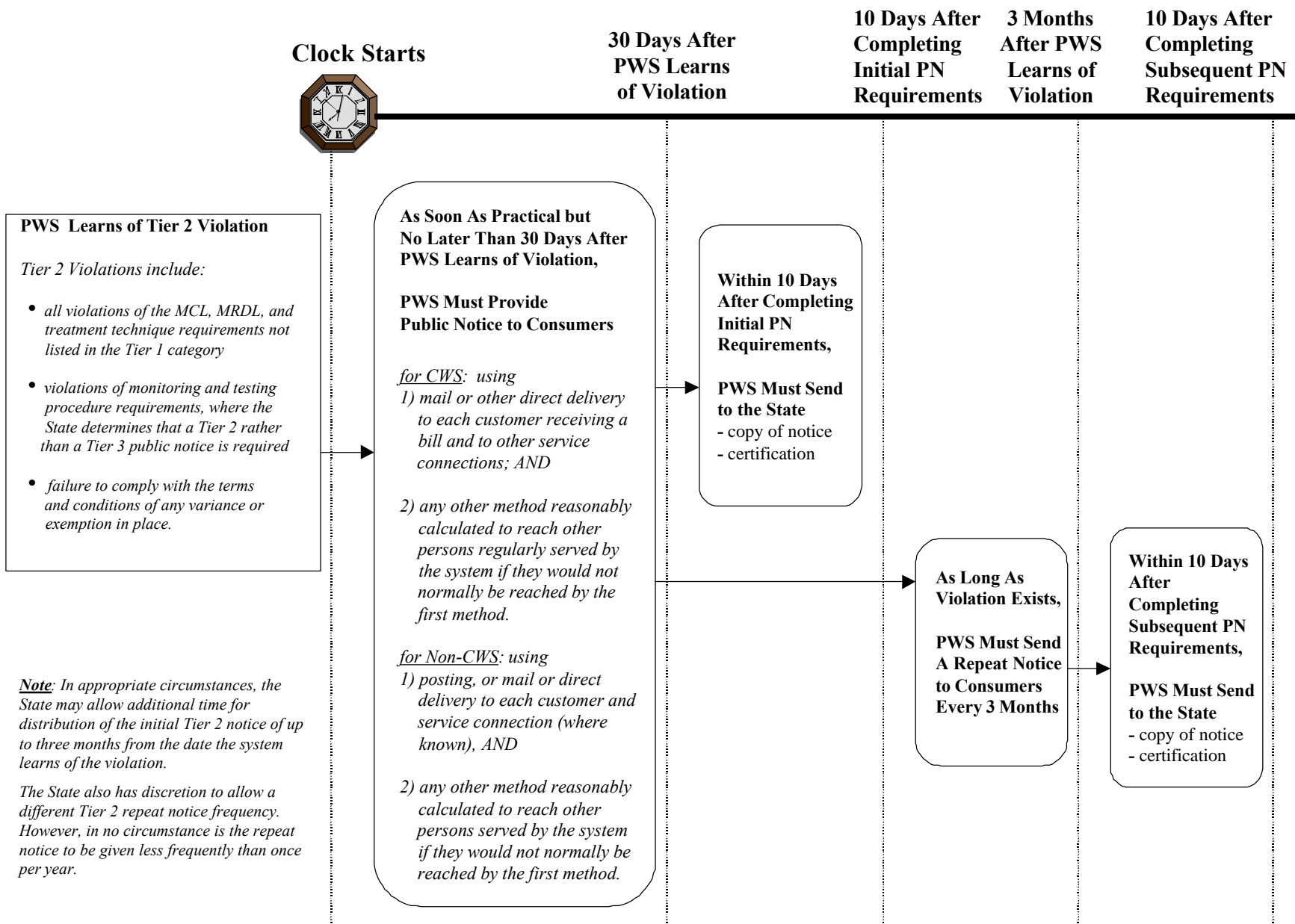
(Examples of violations of the PN Rule for Tier 1, 2, and 3 violations and situations are outlined in Table 7. All violations may not be reflected in this table.)

- ▶ Submit to the State within 10 days of completing the public notification requirements, a certification that it has fully complied with the PN Rule and a representative copy of the notice.

Flowchart 1: Tier 1 Violations -- Timeline for PWS Actions



Flowchart 2: Tier 2 Violations -- Timeline for PWS Actions



Flowchart 3: Tier 3 Violations -- Timeline for PWS Actions

Clock Starts



12 Months
After PWS
Learns of
Violation

10 Days After
Completing
Initial PN
Requirements

12 Months
After PWS
Sends Initial
Notice

10 Days After
Completing
Subsequent PN
Requirements

PWS Learns of Tier 3 Violation

Tier 3 Violations include:

- monitoring violations under 40 CFR part 141, except where a Tier 1 notice is required under §141.202(a) or where the State determines that a Tier 2 notice is required
- failure to comply with a testing procedure established in 40 CFR part 141, except where a Tier 1 notice is required under §141.202(a) or where the State determines that a Tier 2 notice is required.
- operation under a variance granted under Section 1415 or exemption granted under Section 1416 of SDWA
- availability of unregulated contaminant monitoring results, as required under §141.207
- exceedance of the fluoride SMCL as required under 141.208

Note: Instead of individual Tier 3 public notices, a PWS may use an annual report to detail all violations and situations that occurred during the previous twelve months, as long as the timing requirements of §141.204(b)(1) are met.

Within 12 Months After PWS Learns of Violation

PWS Must Provide Public Notice to Consumers

- for CWS: using*
- 1) mail or other direct delivery to each customer receiving a bill and to other service connections, AND
 - 2) any other method reasonably calculated to reach other persons regularly served by the system if they would not normally be reached by the first method.
- for Non-CWS: using*
- 1) posting, or by mail or direct delivery to each consumer and service connection (where known), AND
 - 2) any other method reasonably calculated to reach other persons regularly served by the system if they would not normally be reached by the first method.

Within 10 Days After Completing Initial PN Requirements,

PWS Must Send to the State
- copy of notice
- certification

As Long As Violation Exists,

PWS Must Send A Repeat Notice to Consumers Every 12 Months

Within 10 Days After Completing Subsequent PN Requirements,

PWS Must Send to the State
- copy of notice
- certification

Table 7 - PN Violations	
Tier	A PWS Can Incur a Violation of the PN Rule for:
Tier 1	<ul style="list-style-type: none"> ▶ Failure to provide notice to all persons served not later than 24 hours after learning of a violation or other situation posing a health risk. ▶ Failure to initiate consultation with the primacy agency within 24 hours and comply with any additional requirements established as a result of consultation with the primacy agency. ▶ Failure to deliver notice using one of the methods below: <ol style="list-style-type: none"> 1) Broadcast media (radio or television), 2) Hand delivery, 3) Posting, or 4) Another method approved by the primacy agency in advance or during consultation
Tier 2	<ul style="list-style-type: none"> ▶ Failure to provide notice to all persons served no later than 30 days after learning of a violation or, if the primacy agency granted the PWS an extension, failure to provide notice by the new deadline. ▶ Failure to provide repeat notice every 3 months for as long as the violation or situation exists, or failure to provide repeat notice at a repeat notice frequency specified by the primacy agency. ▶ Failure to keep a posted notice in place for as long as the violation or situation exists but not less than 7 days (even if the violation is resolved). ▶ Failure to distribute notice using one of the methods below: <p>CWS: 1) Mail or hand delivery, <u>and</u></p> <p> 2) Another method as needed to reach others</p> <p>NCWS: 1) Posting, hand delivery, or mail, <u>and</u></p> <p> 2) Another method as needed to reach others</p>
Tier 3	<ul style="list-style-type: none"> ▶ Failure to provide notice to all persons served not later than 1 year after learning of a violation or situation posing health risk or after a PWS begins operating under a variance or exemption. ▶ Failure to repeat notice annually for as long as the violation or situation exists. ▶ Failure to keep a posted notice in place for as long as the violation, variance, exemption, or situation exists but not less than 7 days (even if the violation is resolved). ▶ Failure to distribute notice using one of the methods listed below: <p>CWS: 1) Mail or hand delivery, <u>and</u></p> <p> 2) Another method as needed to reach others</p> <p>NCWS: 1) Posting, hand delivery, or mail, <u>and</u></p> <p> 2) Another method as needed to reach others</p>

Table 7 - PN Violations

Tier	A PWS Can Incur a Violation of the PN Rule for:
All Tiers	<ul style="list-style-type: none"> ▶ Failure to include each of the required 10 elements shown below in the public notice (where applicable): <ol style="list-style-type: none"> 1) Description of the violation or situation including contaminant(s) of concern and (as applicable) the contaminant level(s); 2) When the violation or situation occurred; 3) Any potential adverse health effects from the violation or situation, including standard language provided in the rule; 4) The population at risk; including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water; 5) Whether alternate water supplies should be used; 6) What actions consumers should take, including when to seek medical help, if known; 7) What the system is doing to correct the violation or situation; 8) When the system expects to return to compliance or resolve the situation; 9) Contact information: name, business address, and phone number of the water system owner, operator, or designee of the PWS that can provide additional information; and 10) A statement encouraging notice recipients to distribute the notice to other persons served, using standard language from the rule, where applicable. ▶ Failure to include the standard language specified in the rule for: <ul style="list-style-type: none"> - MCL, MRDL, and TT violations - Monitoring and testing procedure violations - Encouraging distribution of notice to all persons served - Special notice of fluoride SMCL exceedance. ▶ Failure to send a copy of the notice and certification to the State within ten days, even if the system prepares and distributes a notice in accordance with the rule.

A.2. How is a PN Violation Identified?

EPA anticipates that States will primarily rely on the certification to track whether a PWS has met all applicable PN requirements, unless the State chooses to use additional tracking methods or believes that the certification is not reliable. Section 141.31(d) of the PN Rule requires water systems to submit a copy of the notice and a certification to the State within 10 days of completing the public notification requirements for the initial public notice and any repeat notices. If a State has not received a copy of the notices and a certification from a PWS within the 10-day time frame, States should assume notice was not given and record a PN violation for that PWS in its own tracking system, and in its quarterly reporting to EPA. States should also record a PN violation, if after State review, the State determines the notice was inadequate.

States are expected to record a PN violation for a PWS:

- ▶ If the State did not receive copies of the notices and certifications.
- ▶ If the State received any notice or certification late.
- ▶ If after review, the State concluded that the form, delivery or content of an initial or repeat notice was inadequate or otherwise determined the timing or distribution requirements were not met (despite the certification).

A.3. State Enforcement, Compliance Monitoring and Assistance, or Other Follow-up

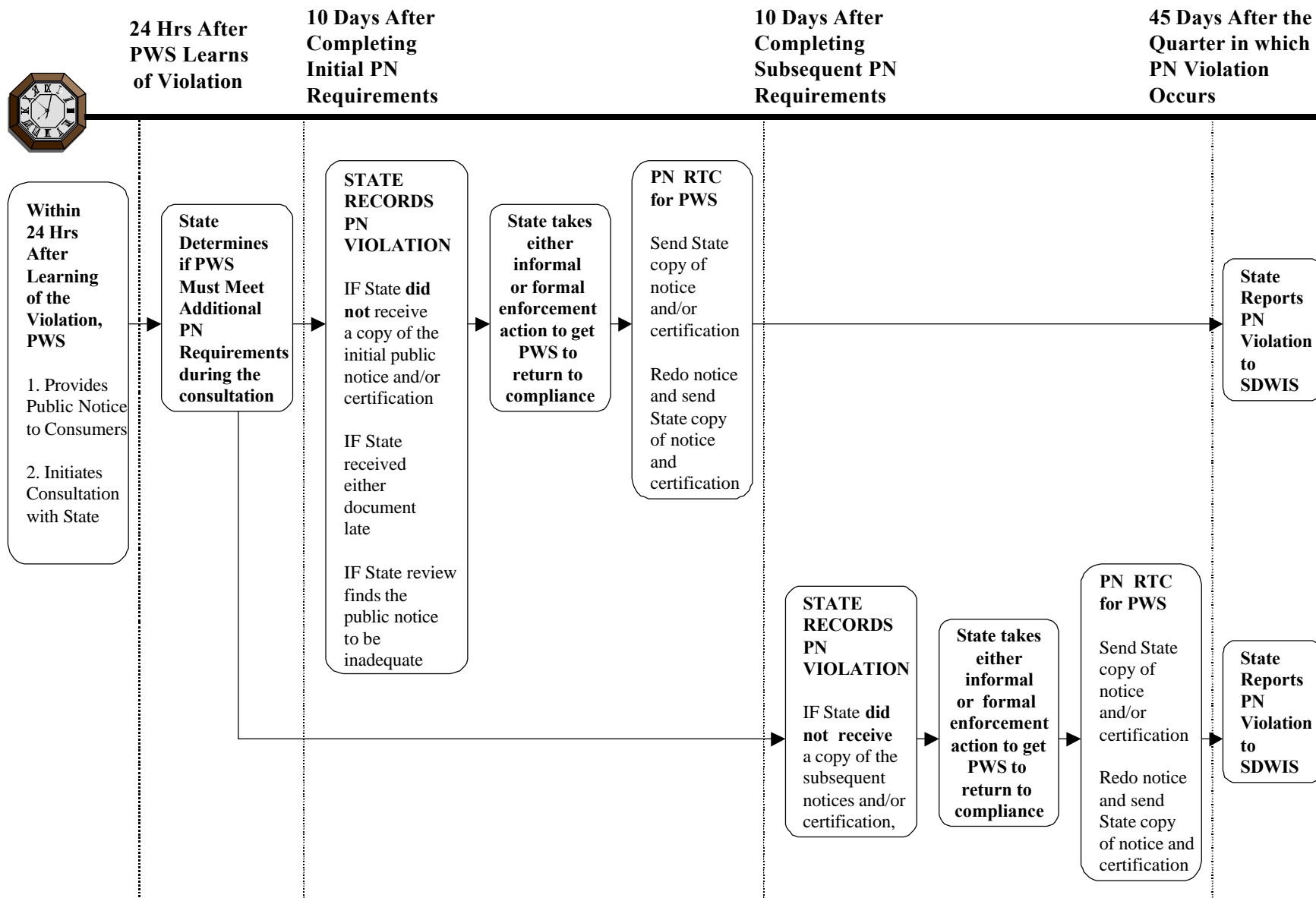
Primacy states will have statutory or regulatory enforcement authority adequate to compel compliance with the public notification requirements that conforms to the requirements in 40 CFR 142.10(b)(6). When public notification violations occur in addition to an underlying violation for which the State brings an enforcement action, the State should include the public notification violations as part of the enforcement action for the underlying violation. The State should also enforce public notification requirements independently from enforcement of underlying violations and should enforce the public notification requirements for situations where there is no underlying violation. State and EPA compliance monitoring and tracking programs, as well as the linkages in their databases between the public notice violations and underlying violations, will help States and EPA to identify, address, and ensure the correction of violations of the PN Rule. States should take any informal or formal measures necessary to return a PWS to compliance with the PN Rule as quickly as possible.

EPA encourages States to develop compliance assistance programs in order to help PWSs comply with the PN Rule and, in the event of a violation, to return to compliance with the rule. For example, when a State learns of an NPDWR violation or other situation, the State may remind the PWS of its obligation to provide public notice and may inform the PWS of the public notice form, manner, content, and delivery requirements. The State may also choose to give notice to the public on behalf of the PWS, in accordance with 40 CFR 141.210; however, the owner or operator of the PWS remains legally responsible for ensuring that the PN requirements are met.

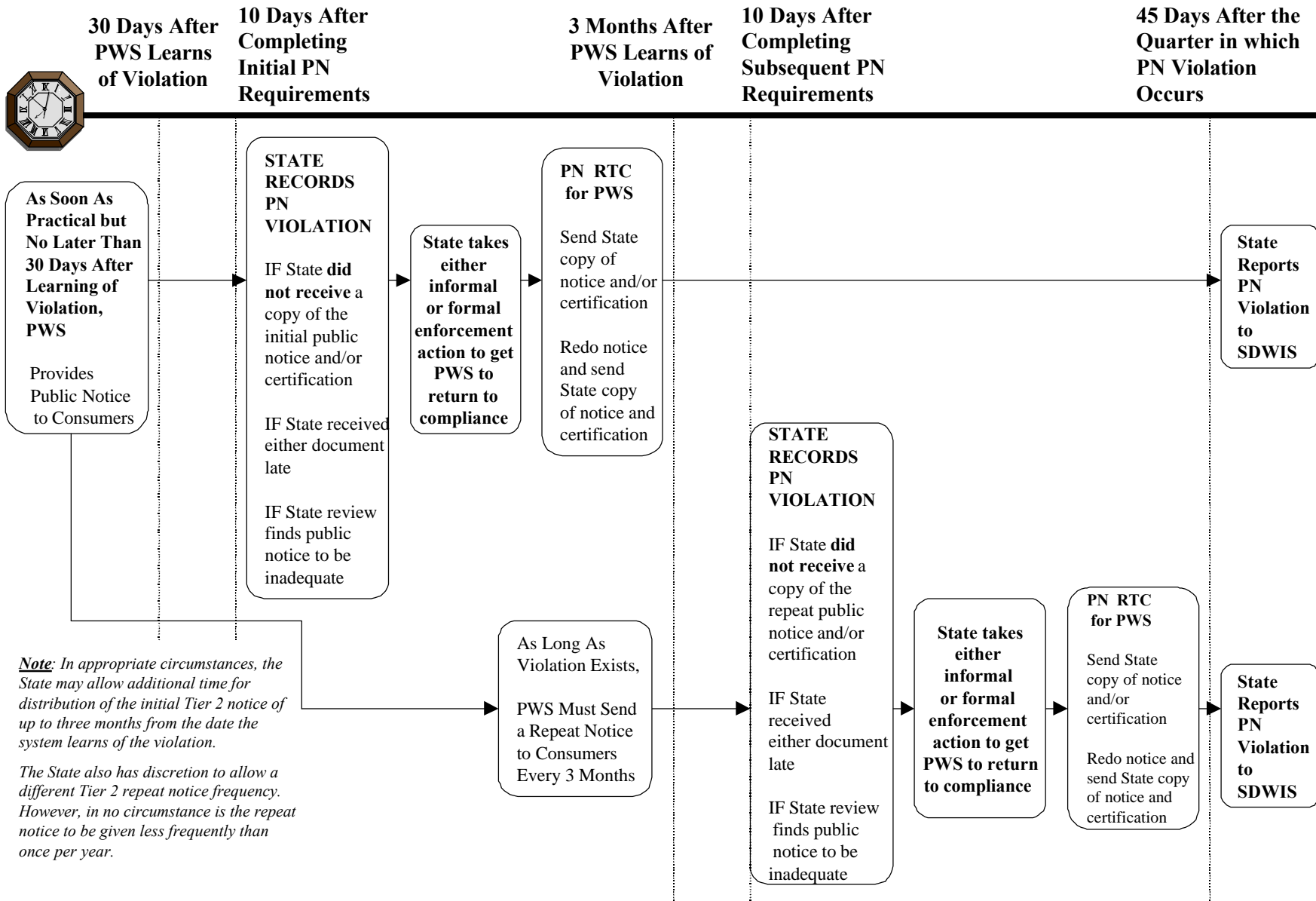
As part of its compliance assistance efforts, a State may also provide the PWS with templates and other reference materials. States are also encouraged to direct water system operators to EPA's website or reference EPA's website on their own Internet sites.

Flowcharts 4, 5, and 6 starting on the next page provide timelines for State actions, once a State learns of a Tier 1, 2, or 3 violation.

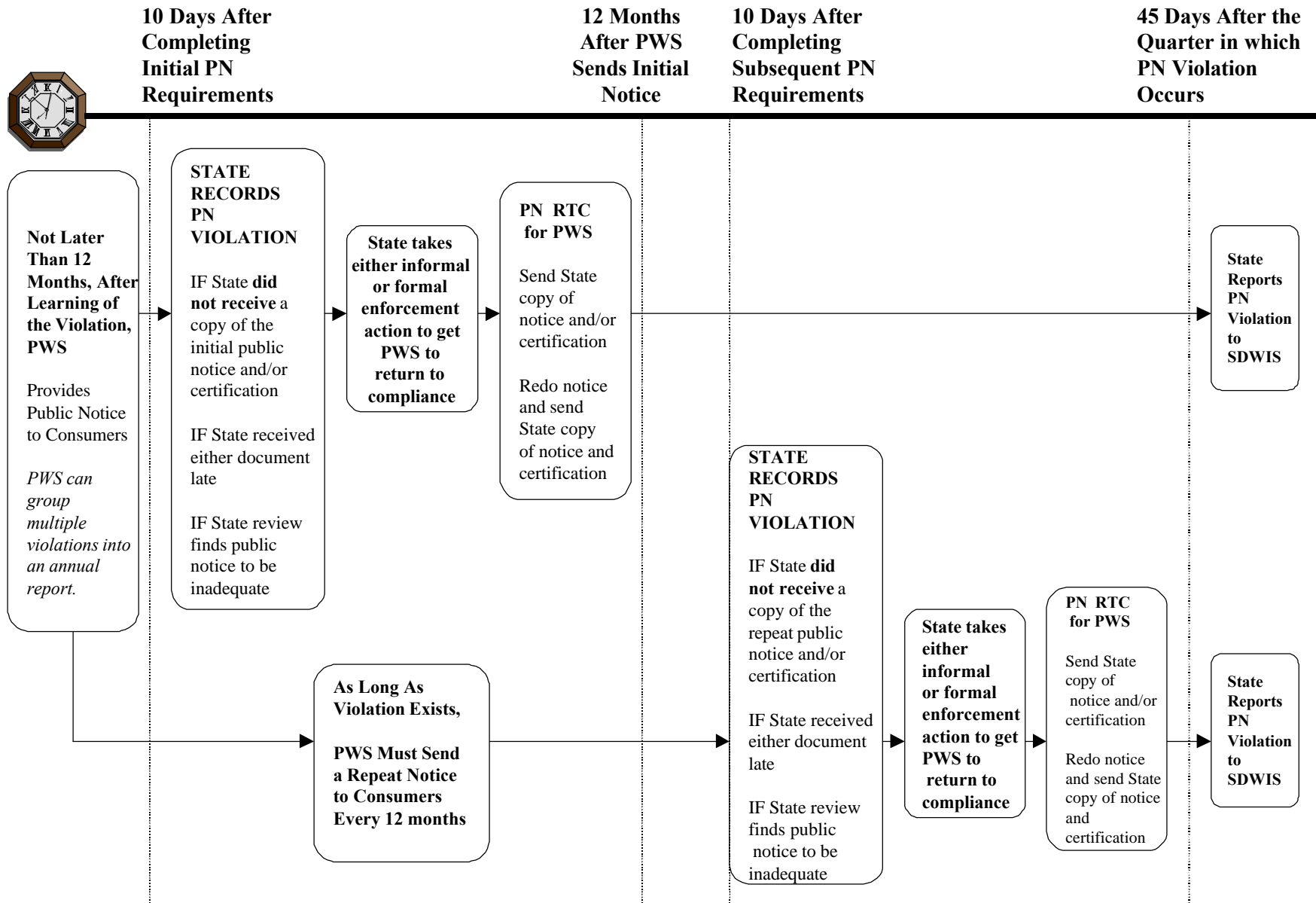
Flowchart 4: Tier 1 Violations -- Timeline for State Actions



Flowchart 5: Tier 2 Violations -- Timeline for State Actions



Flowchart 6: Tier 3 Violations -- Timeline for State Actions



A.4. Return to Compliance

Generally, a PWS that has violated the PN Rule returns to compliance with the rule when it performs the action required under the rule. The following provides some examples of what a PWS should do to return to compliance. These examples may not include all return to compliance situations:

- ▶ If the system did not prepare and distribute the public notice in accordance with the rule, the system has subsequently prepared and distributed the notice, as well as provided a copy of the notice and a certification to the State.
- ▶ If the system did not submit either a copy of the notice or the certification by the required deadline, the system has subsequently sent the State the required documents.
- ▶ If the system prepared an inadequate notice, the system has subsequently prepared a notice that addresses all deficiencies identified by the State, delivered it to the State with a certification and distributed it to persons served in accordance with the rule.

Return to compliance with the PN Rule does not relieve the PWS from liability for public notice or NPDWR violations.

B. SDWIS Reporting and EPA Follow-up

The State and EPA compliance monitoring and tracking systems help the States and EPA to identify, address, and ensure the correction of violations of the PN Rule. Under the new PN Rule, States must maintain copies of public notices and records of public notification violations for three years [40 CFR 142.14(f)]. States must also report to EPA's SDWIS/FED database system, on a quarterly basis, information about public notification violations in the State during the previous quarter and new enforcement actions taken by the State during the previous quarter against PWSs for public notification violations.

In order to help States and EPA to track public notification violations and to ensure that those violations are included in enforcement actions for the underlying SDWA violations or otherwise, SDWIS/FED will have a mechanism to link the record for the public notification violation to the record for the underlying NPDWR violation. The underlying NPDWR violation drives the severity of the public health risk and is the basis for the new requirement to link the PN violation to the related NPDWR violation.

EPA expects that violations of public notification requirements will be included as part of enforcement action for the underlying NPDWR violation. EPA also anticipates there will be enforcement of public notice requirements independent from enforcement of underlying violations and for situations where there is no underlying violation.

When the State records a PN violation in its database, the State should also report the PN violation to SDWIS/FED. Under the revised PN Rule, States will have to report the following information to SDWIS/FED:

- 1) Whether there is a PN violation for the public notice (initial or repeat notice, certification, etc.).
- 2) Date of the PN violation.
- 3) Link to the underlying NPDWR violation.
- 4) When the system has returned to compliance for the PN violation.
- 5) If the State brought formal enforcement action, the type of action, the date it was initiated, and the date the violation was resolved.

The revised PN Rule requires States to report the information specified above to SDWIS/FED within 45 days after the quarter in which the PN violation occurred, or in which the system returned to compliance. Appendix C of this guidance contains detailed information on SDWIS reporting requirements for the PN Rule.

EPA will use this information on public notification violations to track PWS compliance with the PN Rule and to review the adequacy of State implementation, compliance monitoring and enforcement of the PN requirements. Based upon a review of this information, EPA may provide compliance assistance suggestions and additional guidance to the State or directly to the PWS. When appropriate, EPA may also decide to pursue federal enforcement.

Table 8 summarizes the SDWIS reporting requirements for the PN Rule. A detailed list of violations is provided in Appendix C, which is intended for use by programmers and for enforcement. A user can reference Appendix C to understand how violations of the rule can be entered into SDWIS.

Table 8 - Proposed Federal Reporting for the PN Rule
(States Report Only When Violations Occur)

Violation Code	Rule Code	PN Section Reference	Description
75	7500	§141.201 (b)	<p>PN violation for a NPDWR violation</p> <p>(i.e., failure to notify public via initial or repeat notice, failure to required documents [initial or repeat notice or certification] to state)</p>

76	7500	§141.202 (a) §141.205 (b) §141.207 §141.208 §141.209	Other Potential Health Risk Situation Violations (i.e., for those situations where there is no underlying NPDWR violation such as waterborne disease outbreak/other waterborne emergency, variance or exemption, availability of unregulated contaminant monitoring data, fluoride SMCL exceedance, and nitrate exceedances above the MCL by NCWS, where granted permission by the State)
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