

PUBLIC NOTIFICATION RULE

RULE: 15A NCAC 18C .1523 – “Public Notification Requirements” (Note: Federal Rules 40 CFR 141.32 and 40 CFR 141.201 through 141.210 (Subpart Q) are incorporated into Section .1523 of NC’s Regulations by reference. In addition, NC clarified multi-lingual notification requirements [Section .1523(a)] and added Special Notification Requirements for Distribution System Samples [Section .1523(c)].

APPLIES TO: All public water systems

PUBLIC NOTIFICATION REPORTING REQUIREMENTS: [40 CFR 141.201(a)]

- **Who must give public notice?**
 - Each owner or operator of a public water system must give notice for all violations of national primary drinking water regulations (NPDWR) and for other situations as outlined in Table 1 to 40 CFR 141.201, and as determined by the primacy agency, for other situations not outlined in the regulation that may pose a threat to public health.
 - Except where a different reporting period is specified, the supplier of water must report to the State within 48 hours the failure to comply with any NPDWR (including failure to comply with monitoring requirements). [40 CFR 141.31 (b)] The clock for notification starts when the system learns of the violation.

TYPE OF PUBLIC NOTICE REQUIRED: [40 CFR 141.201(b)]

Public Notice requirements are divided into three tiers, based on the seriousness of the violation or situation and any potential adverse health effects that may be involved. Appendix A of Subpart Q identifies the tier assignment for each specific violation or situation.

- **Delivery Frequency:**
 - **Tier 1- 24 hours:** [40 CFR 141.202 (a) Table 1] - Examples of Tier 1 Violations: Fecal coliform violations; failure to test for fecal coliform after initial total coliform sample tests positive; nitrate, nitrite, or total nitrate and nitrite MCL violations and failure to take a nitrate/nitrite confirmation sample within 24 hours after learning an initial sample exceeded the MCL; chlorine dioxide MRDL exceedance in the distribution and failure to take chlorine dioxide samples in distribution system when required; turbidity MCL violations (if elevated to Tier 1 by the State) and if consultation does not take place within 24 hours after the system learns of the violation; special notice for non-community water systems (NCWS) with nitrate exceedances between 10 mg/L and 20 mg/L, where system is allowed to exceed 10 mg/L by the State; waterborne disease outbreak or other waterborne emergency; other violations or situations determined by the State.
 - **Tier 2- 30 days:** [40 CFR 141.203 (a) Table 1] – Examples of Tier 2 Violations: All MCL, MRDL, and treatment technique violations, except where Tier 1 notice is required; monitoring violations (if elevated to Tier 2 by the State taking into account potential health impacts and persistence of the violation); failure to comply with variance and exemption conditions.
 - **Tier 3- 1 year:** [40 CFR 141.204 (a) Table 1] – Examples of Tier 3 Violations: Monitoring or testing procedure violations (unless the State elevates to Tier 1 or 2); operation under a variance or an exemption; special public notices (fluoride secondary maximum contaminant level (SMCL) exceedance, availability of unregulated contaminant monitoring results).

Delivery Methods:

- **Tier 1 – All Systems:** As soon as practical, but no later than 24 hours after the system learns of the violation, the water system must, at a minimum, use one of more of the following forms of delivery: Broadcast media, posting of the notice in conspicuous locations throughout the area served, hand delivery or another delivery method approved in writing by the primacy agency. [40 CFR 141.202 (c)]

- Community Systems Tier 2 & 3: Mail or direct delivery to each customer receiving a bill and to other service connections to which water is delivered; and any other method reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the primary delivery method. [40 CFR 141.203 (c)(1) and 141.204 (c)(1)] The CCR report may be used for Tier 3 public notice delivery but the system must still meet the appropriate deadline for public notice. [40 CFR 141.204 (d)]
- Non-Community Water Systems Tiers 2 & 3: [40 CFR 141.203 (c)(2) and 141.204 (c)(2)] Post the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection (where known).

INCOMING REPORT SUBMITTALS/CONTACT FROM SYSTEMS TO THE STATE:

- **Consultation with the State:** As soon as practical, but no later than 24 hours after the water system learns of any Tier 1 violation or situation, or Tier 2 treatment technique violation, to determine additional public notice requirements that may be established as a result of consultation with the State. [141.202 (b)(2)]
- **Public Notification/Certification:** [40 CFR 141.31 (d)] - The public water system, within 10 days of completing the public notification requirements, must submit to the State a certification that it has fully complied with public notification regulations. The public water system must include with this certification a representative copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media.

OUTGOING ENFORCEMENT/REPORTS/APPROVALS FROM STATE TO SYSTEMS:

- **Violation Letters:** Information prescribing the appropriate public notification actions is included in every violation letter, administrative order and administrative penalty issued by the Compliance Services Branch. No separate violation letter is issued for any subsequent public notification violations.

ADDITIONAL INFORMATION:

The Public Water Supply website has public notice templates available for download by water systems for all potential NPDWR violations. A copy of the applicable public notice is included with each notice of violation letter.

Where the PWS serves 30% or more non-English speaking customers, the system must provide information in the appropriate language(s) on the importance of the notice or on how to get assistance or a translated copy. PWSS has full Spanish translations of the public notices for the Tier 1 Fecal Coliform and Nitrate violations. A translation is available in several different languages that tell customers that the notice includes important information about their drinking water. [40 CFR 141.205 (c)(2)]

Systems that sell or otherwise provide drinking water to other public water systems are required to give public notice to the owner or operator of the purchasing system. The purchasing system is responsible for providing public notice to the persons it serves. Notices must be provided to all persons served (not just billing customers). [40 CFR 141.201(2)]

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