

**Title 25. Environmental Protection
Department of Environmental Protection
Chapter 109. Safe Drinking Water**

Subchapter D. PUBLIC NOTIFICATION

§ 109.407. General public notification requirements.

(a) *Violation categories and other situations requiring a public notice.* A public water supplier shall give public notice for the following circumstances:

(1) Failure to comply with an applicable State primary MCL or MRDL in Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).

(2) Failure to comply with a prescribed treatment technique requirement in Subchapter B, G or K (relating to MCLs, MRDLs or treatment technique requirements; system management responsibilities; and lead and copper).

(3) Failure to perform water quality monitoring, as required by Subchapter C (relating to monitoring requirements) or Subchapter K.

(4) Operation under a variance or an exemption under Subchapter I (relating to variances and exemptions issued by the Department).

(5) Failure to comply with the requirements of any schedule that has been set under a variance or exemption.

(6) Occurrence of a waterborne disease outbreak, **as defined in § 109.1 (relating to definitions), or other [waterborne] probable emergency situation as defined in 109.701(a)(3)(iii) (relating to reporting and recordkeeping) that adversely affects the quality or quantity of finished water and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.**

(7) Availability of unregulated contaminant monitoring data.

(8) Exceedance of the nitrate MCL by noncommunity water systems, when permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to MCLs for inorganic contaminants).

(b) *Definition of public notice tiers.* Public notice requirements are divided into three tiers, to take into account the seriousness of the violation or situation and any potential adverse health effects that may be involved. The public notice requirements for each violation or situation identified in subsection (a) is determined by the tier to which it is assigned. This subchapter incorporates by reference the tier assignment for each specific violation or situation in the National Primary Drinking Water Regulations,

40 CFR Part 141, Subpart Q, Appendix A (relating to the tier assignment for each specific NPDWR violation and other situations requiring public notice), unless other tier assignments are established by regulations or order of the Department.

(1) *Tier 1 public notice.* Required for violations and situations specified in subsection (a) with significant potential to have serious adverse effects on human health as a result of short-term exposure. General violation categories and other situations requiring a Tier 1 public notice are specified in § 109.408(a) (relating to Tier 1 public notice—form, manner and frequency of notice).

(2) *Tier 2 public notice.* Required for all other violations and situations in subsection (a) with potential to have serious adverse effects on human health. General violation categories and other situations requiring a Tier 2 public notice are specified in § 109.409(a) (relating to Tier 2 public notice—form, manner and frequency of notice).

(3) *Tier 3 public notice.* Required for all other violations and situations in subsection (a) not included in Tier 1 and Tier 2. General violation categories and other situations requiring a Tier 3 public notice are specified in § 109.410(a) (relating to Tier 3 public notice—form, manner and frequency of notice).

(c) *Public notice recipients.*

(1) A public water supplier shall provide public notice to persons served by the public water system, in accordance with this subchapter. A public water system that sells or otherwise provides drinking water to another public water system, such as to a consecutive water, bulk water hauling or vended water system, shall give public notice to the owner or operator of the other water system. The other water system is responsible for ensuring that public notice is provided to the persons it serves.

(2) If a public water 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 Department may allow the water supplier to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission for limiting distribution of the notice shall be granted in writing by the Department.

(3) If a public water system has a violation involving a point-of-entry (POE) device, the Department may allow the water supplier to limit distribution of the public notice to only persons served by that POE device. Permission for limiting distribution of the notice shall be granted in writing by the Department.

(4) If a community water system has a Tier 1 violation, the water supplier shall also notify **[key public officials] additional recipients** as designated in the community water system's emergency response plan under § 109.707(a) (relating to emergency response plan).

(5) If a noncommunity water system in which persons 17 years of age or under are cared for or educated, such as a school or day care center, has a Tier 1 violation, the water supplier shall also provide public notice directly to the parent or guardian of those persons.

(6) A water supplier shall provide a copy of the notice to the Department in accordance with the requirements under § 109.701(a)(4) (relating to reporting and recordkeeping).

(d) Additional Requirements. Community water systems shall comply with the planning requirements specified under § 109.702(a)(6) (relating to operation and maintenance plan) and § 109.707.

§ 109.408. Tier 1 public notice— [form, manner and frequency] categories, timing and delivery of notice.

(a) *General violation categories and other situations requiring a Tier 1 public notice.* A public water supplier shall provide Tier 1 public notice for the following circumstances:

(1) Violation of the MCL for total coliforms when fecal coliforms or E. coli are present in the water distribution system, as specified in § 109.202(a)(2) (relating to MCLs, MRDLs or treatment technique requirements), or when the water supplier fails to test for fecal coliforms or E. coli when any check sample tests positive for coliforms, as specified in § 109.301(3) (relating to general monitoring requirements).

(2) Violation of the MCL for nitrate, nitrite or total nitrate and nitrite, as defined in § 109.202(a)(2), or when the water supplier fails to take a confirmation sample within 24 hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in § 109.301(7)(ii)(C)(V).

(3) Exceedance of the nitrate MCL by noncommunity water systems, where permitted by the Department in writing to exceed the MCL in accordance with 40 CFR 141.11(d) (relating to maximum contaminant levels for inorganic chemicals).

(4) Violation of the MRDL for chlorine dioxide, as defined in § 109.202(f)(2), when one or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceed the MRDL, or when the water supplier does not take the required samples in the distribution system, as specified in § 109.301.

(5) Violation of the turbidity MCL of 5 NTU based on an average for 2 consecutive days by a public water system using an unfiltered surface water source, as specified in § 109.202(a)(2).

(6) Violation of a treatment technique requirement for pathogenic bacteria, viruses and protozoan cysts as defined in § 109.202(c), resulting from a single exceedance of the maximum allowable turbidity limit.

(7) Occurrence of a waterborne disease outbreak, as defined in § 109.1 (relating to definitions), or other **[waterborne] probable emergency situation as defined in 109.701(a)(3)(iii) (relating to reporting and recordkeeping)** that adversely affects the quality or quantity of the finished water **[including, but not limited to, the following:] and has a significant potential to have serious adverse effects on human health as a result of short-term exposure.**

[(i) Failure or significant interruption in key water treatment processes.

(ii) A natural disaster that disrupts the water supply or distribution system.

(iii) A chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination.]

(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 Department on a case-by-case basis.

(b) *Timing for a Tier 1 public notice.* A public water supplier shall do the following:

(1) Provide a public notice as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation under subsection (a).

(2) Report the circumstances to the Department within 1 hour of discovery of the violation or situation in accordance with § 109.701(a)(3) (relating to reporting and recordkeeping).

(3) Initiate consultation with the Department as soon as possible, but no later than 24 hours after the water supplier learns of the violation or situation, to determine initial and any additional public notice requirements.

(4) Comply with initial and any additional public notification requirements that are established as a result of the consultation with the Department. These requirements may include the timing, form, manner, duration, frequency, and content of the initial and any repeat notices, and other actions reasonably designed to reach all persons served. The repeat notice frequency, if applicable, for a Tier 1 public notice shall be established as a result of the consultation, but may be no less often than once every 30 days as long as the violation or situation persists.

(5) Provide a public notice, as soon as possible, but no later than 24 hours after the notice is approved by the Department, that the Tier 1 violation or situation has been corrected.

(c) [*Form and manner*] Delivery of a Tier 1 public notice. The [*form and manner*] **delivery methods** used by a public water supplier shall fit the specific situation and shall be reasonably designed to reach residential, transient and nontransient users of the water system. To reach all persons served, a water supplier shall use, [*at a minimum*] **as appropriate to the type and size of the water system, [one or more of]** the following forms of delivery:

(1) [*Appropriate broadcast media, such as radio or television.*] **Community water systems.**

(i) Systems serving 3,300 or fewer persons shall provide public notice to each service connection using one or more of the following forms of direct delivery:

(A) Hand delivery.

(B) Electronic mail.

(C) Another form of direct delivery approved in writing by the Department.

- (ii) Systems serving 3,301 or more persons shall provide public notice to each service connection using one or more of the following forms of direct delivery:
 - (A) Automatic telephone dialing systems or other best available technology.
 - (B) Electronic mail.
 - (C) Another form of direct delivery approved in writing by the Department.
- (iii) In addition to providing public notice to each service connection under subparagraph (i) or (ii), public water systems that also serve transient and nontransient service connections must provide notice using appropriate broadcast media, such as radio and television.
- (iv) If a public water supplier delivers an abbreviated notice in accordance with 109.411(b)(relating to content of a public notice), the public water supplier must also provide the entire public notice under this section in one of the following ways:
 - (A) Posted on a website.
 - (B) Recorded on a dedicated phone line.
 - (C) Another method approved in writing by the Department.

(2) [Posting of the notice in conspicuous locations throughout the area served by the water system.] Noncommunity water systems shall provide notice to transient and nontransient consumers using one or more of the following forms of delivery:

- (i) Posting the notice in conspicuous locations throughout the area served by the water system.
- (ii) Another form of delivery approved in writing by the Department.

[(3) Hand delivery of the notice to persons served by the water system.]

[(4) Another delivery method approved in writing by the Department.]

§ 109.409. Tier 2 public notice— [form, manner and frequency] categories, timing and delivery of notice.

* * * * *

(c) [*Form and manner*] **Delivery of a Tier 2 public notice.** A public water supplier shall provide the initial public notice and any repeat notices in a form and manner that is reasonably designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall at a minimum meet the following requirements:

(1) Unless directed otherwise by the Department in writing, community water systems shall provide notice using the following forms of delivery:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system.

(ii) Any other method reasonably designed to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph (i). Those persons may include those who do not pay water bills or do not have service connection addresses such as house renters, apartment dwellers, university students, nursing home patients or prison inmates. Other methods may include publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others (such as apartment building owners or large private employers), posting in public places served by the system or on the Internet or delivery to community organizations.

* * * * *

§ 109.410. Tier 3 public notice— [form, manner and frequency] categories, timing and delivery of notice.

* * * * *

(c) [**Form and manner**] **Delivery** of a Tier 3 public notice. A public water supplier shall provide the initial notice and any repeat notices in a form and manner that is reasonably designed to reach all persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but the public water supplier shall, at a minimum, meet the following requirements:

(1) Unless directed otherwise by the Department in writing, community water systems shall provide notice using the following forms of delivery:

(i) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system.

(ii) Any other method reasonably designed to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph (i). Those persons may include those who do not pay water bills or do not have service connection addresses such as house renters, apartment dwellers, university students, nursing home patients or prison inmates. Other methods may include publication in a local newspaper, delivery of multiple copies for distribution by customers that provide their drinking water to others (such as apartment building owners or large private employers), posting in public places or on the Internet or delivery to community organizations.

§ 109.411. Content of a public notice.

(a) *Elements of a public notice.* When a public water system is required to give public notice under this subchapter, each public notice shall include the following elements:

(1) A description of the violation or situation, including the contaminants of concern, and (as applicable) the contaminant levels.

- (2) When the violation or situation occurred.
- (3) Any potential adverse health effects from the violation or situation, including the standard language under subsection [(d)] (e)(1) or (2), whichever is applicable.
- (4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water.
- (5) Whether alternative water supplies should be used.
- (6) What actions consumers should take, including when they should seek medical help, if known.
- (7) What the system is doing to correct the violation or situation.
- (8) When the water system expects to return to compliance or resolve the situation.
- (9) The name, business address and telephone number of the water system owner, operator or designee of the public water system as a source of additional information concerning the notice.
- (10) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under subsection [(d)](e)(3), where applicable.

(b) If automatic telephone dialing systems, TV scrollers, bullhorn announcements, or radio station news flashes are used to deliver an abbreviated notice in accordance with § 109.408(c)(1)(ii) or (iii) (relating to tier 1 public notice- categories, timing and delivery), the abbreviated notice shall include, at a minimum, the following elements:

- (1) A description of the violation or situation, including the contaminants of concern, and (as applicable) the contaminant levels.**
- (2) Whether alternative water supplies should be used.**
- (3) What actions consumer should take, including when they should seek medical help, if known.**
- (4) A telephone number or website address or both where consumers can obtain the entire notice.**

[(b)] (c) * * *

* * * * *

[(c)] (d) * * *

* * * * *

[(d)] (e) * * *

* * * * *

Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES

§ 109.701. Reporting and recordkeeping.

(a) *Reporting requirements for public water systems. Public water systems shall comply with the following requirements.*

* * * * *

(3) [**Compliance report**] **One-hour reporting requirements.** A public water supplier shall report the circumstances to the Department within 1 hour of discovery for the following violations or situations:

(i) A primary MCL or an MRDL has been exceeded or a treatment technique requirement has been violated under Subchapter B or K (relating to MCLs, MRDLs or treatment technique requirements; and lead and copper).

(ii) A sample result requires the collection of check samples under § 109.301.

(iii) **A probable emergency situation** [**Circumstances exist**] which may adversely affect the quality or quantity of drinking water including, but not limited to:

(A) The occurrence of a waterborne disease outbreak.

(B) A failure or significant interruption in key water treatment processes.

(C) A natural disaster that disrupts the water supply or distribution system.

(D) A chemical spill.

(E) An unexpected loading of possible pathogens into the source water **that significantly increases the potential for drinking water contamination.**

(F) **An overfeed of a drinking water treatment chemical.**

(G) **A situation that causes a negative water pressure in any portion of the distribution system.**

(H) **A lack of resources that affect operations, such as staff shortages, notification by the power utility of planned lengthy power outages, or imminent depletion of treatment chemical inventories.**

* * * * *

§ 109.702. Operation and maintenance plan.

(a) A community water supplier shall develop an operation and maintenance plan for the community water system. The operation and maintenance plan shall **generally** conform to the guidelines contained in the Department's *Public Water Supply Manual* and shall contain at least the following information:

- (1) A description of the facilities.
 - (2) An explanation of startup and normal operation procedures.
 - (3) A routine maintenance program.
 - (4) Records and reporting system.
 - (5) Sampling and analyses program.
 - (6) **[A] Public notification [program including] elements in accordance with Subchapter D (relating to public notification) that include:**
 - (i) [appropriate advance preparations, such as] Public notice templates[,].**
 - (ii) EPA contaminant fact sheets, where available.**
 - (iii) An explanation of appropriate methods of delivery of public notice in accordance with Subchapter D) [and a designation of public notice recipients for each tier type].**
 - (7) Staffing and training.
 - (8) Sanitary survey program including the wellhead protection program for any water system that develops one under § 109.713 (relating to wellhead protection programs).
 - (9) Safety program.
 - (10) Emergency plan and operating procedures.
 - (11) Manufacturer's manuals.
 - (12) An interconnect, valve and blowoff exercise and testing program.
 - (13) Date of last update.**
- (b) The community water supplier shall implement the operation and maintenance plan in accordance with accepted practices of the water supply industry.

(c) The **community water supplier shall review and update** the operation and maintenance plan **[shall be reviewed and updated]** as necessary to reflect changes in the operation or maintenance of the water system. The plan shall be:

- (1) [bound and]Placed in secure locations which are readily accessible to the water system's personnel[,].**
- (2) [and shall be] Presented upon request to the Department.**

(d) Noncommunity water suppliers may be directed by the Department to develop and implement an operation and maintenance plan as provided for in this section when the public health is threatened by inadequate operation and maintenance of the facilities.

§ 109.707. Emergency response plan.

(a) A community water supplier shall develop a plan for the provision of safe and adequate drinking water under emergency circumstances. **[, and submit the plan to the Department for approval by December 8, 1985.]** The emergency response plan shall **generally** conform to the guidelines contained in the Department's Public Water Supply Manual, **as applicable**, and shall contain at least the following: **[information]**

(1) [Identification of probable emergency situations, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), and alternative solutions to respond to situations including how the system will maintain its ability to provide service in the event of contamination or an outage of one or more of its sources of supply. Consideration shall be given to providing reserve capacity according to § 109.609 (relating to reserve capacity and finished water storage)] Organization table. Develop an organization table that includes a prioritized list of names and contact numbers of persons in charge of the water system during an emergency.

(2) Communication procedures and contact information. For each probable emergency situation, including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping), list contact persons and phone numbers for the following groups of people :

- (i) Local emergency management agencies within a water system's jurisdiction.**
- (ii) Government agencies including, but not limited to the Department, Public Utility Commission, Department Of Health, Department Of Energy, Department of Public Welfare and Pennsylvania Department of Agriculture.**
- (iii) Sensitive sub-populations including, but not limited to hospitals, schools, daycare facilities, nursing homes, industrial and commercial users.**
- (iv) Media.**
- (v) Equipment and chemical suppliers.**

[(2)] (3) [Procedures for communications and coordination with the local emergency management organization] Means of communication. List the following:

- (i) Types of communication equipment.**
- (ii) Types of communication for public notification.**

(4) Summary description of the system. List the following:

- (i) Location of pertinent operational information.**
- (ii) Source information.**
- (iii) Treatment information.**
- (iv) Finished water storage.**

(5) Assessment of available resources. List the following:

- (i) Mutual aid agreement(s).**
- (ii) Emergency water supply equipment that includes procedures for providing reserve capacity according to 109.609 (relating to reserve capacity and finished water storage) or an approved alternative water supply.**
- (iii) Power supply equipment.**
- (iv) Repair equipment.**
- (v) Vehicles and construction equipment.**
- (vi) Spare equipment.**

(6) Corrective actions for probable emergency situations. List the following:

- (i) Probable emergency situations including, but not limited to, those specified in § 109.701(a)(3)(iii) (relating to reporting and recordkeeping).**
- (ii) Corrective actions for each probable emergency situation.**

(b) The [plan shall be kept on file in a readily accessible location by the public water supplier.] community water supplier shall implement the emergency response plan when necessary.

(c) The community water supplier shall review and update the plan [shall be reviewed and updated] at least annually. The plan shall be:

- (1) Placed in secure locations which are readily accessible to the water system's personnel.**
- (2) Presented upon request to the Department.**