

Public Notification Rule

State-EPA Training

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Agenda

- **Welcome and Introductions**
- **Training Objectives**
- **PN Slide Presentation**
 - **Background on development of the PN Rule**
 - **Overview of the Rule**
 - **Key areas that changed**
 - **Summary of areas EPA believes are critical for state adoption**
 - **Key dates of the rule**

Agenda (cont.)

- **Detailed rule summary**
- **State Rule Adoption and Primacy Revision Applications**
- **PN Violations and Enforcement**
- **SDWIS Reporting**
- **PN Handbook**
 - Exercises on preparing public notices using templates from the PN Handbook

Background on Development of the PN Rule

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What is Public Notification?

- **EPA regulation requiring all public water systems to alert consumers to potential health risks from violations of drinking water standards**
- **Established under 1974 Safe Drinking Water Act (SDWA) and amended in 1986 and 1996**
- **Regulations define the form, manner, content, and frequency of public notice**

Rulemaking Process

- **1992 GAO report found:**
 - Low compliance with existing requirements
 - Difficulties in communicating with consumers
 - Public notices were too technical
- **The 1996 SDWA Amendments required EPA to revise the existing Public Notification requirements as an integral part of the public right-to-know provisions**

Rulemaking Process (cont.)

- To obtain stakeholder input on problems with the PN program, EPA:
 - Held three stakeholder meetings in 1997
 - Proposed PN rule -- May 13, 1999
 - Held four public meetings in May and June 1999 to discuss the proposed rule
- EPA consulted with States throughout the rule development process
 - PN rule workgroup included representatives from four states and eight EPA regions

Development of the Draft State PN Implementation Guidance

- Draft guidance intended for use by:
 - States as they develop primacy revision applications
 - Regions as they review the applications

Implementation Aids

- **State Implementation Guidance for the PN Rule**
 - Summary of the rule requirements
 - State primacy revision applications
 - Special primacy requirements
 - Violation determination and associated reporting requirements
 - Appendices: additional information, example formats
- **PN Handbook**
 - Summarizes requirements
 - Provides templates for public notices

Overview of the Rule

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Overview of the Rule

- **General Public Notification Requirements - §141.201**
 - Who must give public notice?
 - What type of notice is required for each situation?
 - Who must be notified?
- **Requirements for Tier 1, 2, and 3 Public Notices - §141.202 to §141.204**
- **Content Requirements for Public Notices - §141.205**
 - 10 required elements, Standard language

Overview of the Rule (cont.)

- **Variances and Exemptions - §141.205(b)**
- **Multilingual Requirement - §141.205(c)(2)**
- **Special Public Notices**
 - Availability of unregulated contaminant monitoring data -§141.207
 - Exceedance of the fluoride SMCL - §141.208
 - Nitrate exceedances above MCL by NCWS, where granted permission by the primacy agency under §141.11(d) - §141.209
- **Reporting and Recordkeeping Requirements - §142.14, § 142.15**
- **Special Primacy Requirements - §142.16**

How Does the Final Regulation Work?

- Public notice requirements are divided into three tiers:
 - Tier 1 -- Acute violations
 - Tier 2 -- Other serious violations
 - Tier 3 -- All other violations
- For Each Tier, the rule:
 - Outlines the type of violations that fall within the Tier
 - Identifies the deadline for giving notice
 - Specifies the method of delivery for distributing notices

How Does the Final Regulation Work?

- **Delivery requirements for public notices are based on a performance standard:**
 - A minimum delivery method plus other steps “reasonably calculated” to reach persons served
 - Examples of delivery methods:
 - Appropriate broadcast media
 - Posting of notice
 - Mail or hand delivery
- **The rule also includes new, more specific, multilingual notice requirements**

How Does the Final Regulation Work? (cont.)

- Each public notice must address ten elements:
 - 1) Description of the violation or situation
 - 2) When the violation or situation occurred
 - 3) Potential health effects
 - 4) The population at risk
 - 5) Whether alternate water supplies should be used
 - 6) Actions consumers should take
 - 7) What is being done to correct the violation/situation
 - 8) When the system expects to return to compliance
 - 9) Name, number, and business address for more information
 - 10) Standard distribution language

How Does the Final Regulation Work? (cont.)

- **Consultation requirement**
 - Required for all Tier 1 violations
- **Certification requirement**
 - PWS certifies that all public notice requirements have been met
 - Certification must be sent to the State within 10 days of providing public notice to consumers
- **Recordkeeping requirement**
 - PWS and States must keep copies of notice and certifications on file for three years

Key Areas That Have Changed

- **Tier 1:**
 - 24-hour (rather than 72 hour) notice for acute violations
 - New consultation requirement with state for acute violations
- **Tier 2:**
 - 30-day (rather than 14-day) notice for other serious violations
- **Tier 3:**
 - 12-month (rather than 3-month) notice for all other violations

Key Areas That Have Changed (cont.)

- **Standard language**
 - Simplified health effects language
 - New standard language for monitoring violations
- **Streamlined distribution of notices to reach persons served**
- **New certification requirement**
- **New recordkeeping requirement**

Areas of State Flexibility

- Elevate violations to higher tiers**
- Require public notification for violations or other situations not listed in Appendix A of the PN rule, if they pose a serious health threat**
- Tier 1: Set additional public notice requirements as part of mandated consultation**
- Tier 2: Extend deadline for initial notice up to three months or repeat notice frequency up to one year (in certain situations)**
- Allow different delivery methods for Tier 1, 2, & 3 notices**
- Allow limited distribution of notice**

Key Dates of the Rule

- By October 31, 2000 PWSs in direct implementation areas must comply with the revised PN rule
 - By May 6, 2002 PWSs in primacy states must comply with the revised PN rule
- Note: *Each state sets the pace of implementation, but may not exceed two years from the date of publication of the rule in Federal Register.*

Detailed Rule Summary

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General PN Requirements - Who Must Give Notice?

- All PWSs must give notice - §141.201(c)(1),
§141.210
 - PWSs that sell or otherwise provide water to consecutive systems must give public notice to the owner or operator of the consecutive system
 - ◆ *The consecutive system is responsible for providing public notice to the persons it serves*
 - Notice by primacy agency on behalf of a system

General PN Requirements - What Type of Notice is Required?

- Type of notice required for each violation or situation - §141.201(b)
 - PN requirements divided in to three tiers - 1, 2, and 3
 - Appendix A of the PN Rule lists tier assignments for violations or other situations requiring public notice

General PN Requirements - Who Must Be Notified?

- A PWS must :
 - Provide notice to all persons served - §141.201(c)
 - Notify consecutive systems - §141.201(c)(1)
 - Provide notice to new billing units - §141.206
(for community water systems [CWSs] only)
 - Send a copy of the public notice (along with certification of compliance) to the state - §141.201(c)(3)

General PN Requirements - Who Must Be Notified? (cont.)

- §141.201(c)(2) - Limited Distribution of Notice
- If the state allows, a PWS may limit distribution of the public notice to only persons served by that portion of the system which is out of compliance
 - Note: States may allow limited distribution only if the violation is in a portion of the distribution system that is either *physically* or *hydraulically* isolated from other parts of the distribution system

Tier 1 - Acute Violations and Situations §141.202

- **Deadline for notice: 24 hours**
 - As soon as practical, but no later than 24 hours after PWS learns of violation, PWS must provide public notice
- Within this time frame PWS must also initiate consultation with the state
- PWS must comply with any additional public notification requirements the state sets during consultation

Tier 1 - Acute Violations and Situations §141.202 (cont.)

- Delivery methods to use:
 - PWS must use, at a minimum, one or more of the following:
 - Broadcast media (radio or television);
 - Posting;
 - Hand Delivery; or
 - Another delivery method approved in writing by the state

Tier 1 - Acute Violations and Situations §141.202 (cont.)

- **Violations or other situations requiring Tier 1 public notice**
 - Appendix A of the PN Rule
 - PN Handbook - Table 2, page 8
 - Draft State Implementation Guidance for the PN rule - Table 1, page 4

Tier 2 - Other Serious Violations and Situations §141.203

- Deadline for notice: 30 days
 - As soon as practical, but no later than 30 days after PWS learns of the violation
 - The state may, in appropriate circumstances, allow additional time for the initial notice of up to three months
 - Extensions granted by the state must be in writing
 - EPA believes it is not appropriate for states to grant extensions for any unresolved violation or to allow “across-the-board” extensions by rule or policy for other violations or situations requiring a Tier 2 notice

Tier 2 - Other Serious Violations and Situations §141.203 (cont.)

- Delivery methods to use:
 - CWS: 1) Mail or other direct delivery, and
2) Another method as needed to reach other persons regularly served by the system
 - NCWS: 1) Posting, or by mail or direct delivery, and
2) Another method as needed to reach other persons regularly served by the system
 - Systems must use these methods unless directed otherwise by the state in writing

Tier 2 - Other Serious Violations and Situations §141.203 (cont.)

- **Violations or other situations requiring Tier 2 public notice**
 - All violations of MCL, MRDL, and TT requirements except where a Tier 1 notice is required
 - Violations of the monitoring requirements where the state determines a Tier 2 rather than a Tier 3 public notice is required
 - Failure to comply with the terms and conditions of a variance or exemption

Tier 2 - Turbidity Violations

§141.203(b)(3)

- 24 hour consultation for turbidity violations
 - A PWS must consult with the state as soon as practical but no later than 24 hours after learning of the following turbidity violations:
 - TT violations resulting from single exceedances of turbidity limits (5 NTU) under the SWTR
 - TT violations resulting from single exceedances of turbidity limits (1 NTU) under the IESWTR
 - Turbidity MCL violations determined by the average of turbidity measurements over two consecutive days (5 NTU) under §141.13(b)

Tier 3 - All Other Violations and Situations §141.204

- **Deadline for notice:** 1 year
 - Not later than one year after PWS learns of violation or situation or begins operating under a variance or exemption
 - Following the initial notice, PWS must repeat notice annually for as long as violation or other situation continues
 - If the notice is posted it must remain in place for as long as the violation or situation exists, but in no case less than seven days

Tier 3 - All Other Violations and Situations §141.204 (cont.)

- **Delivery methods to use:**
 - CWS: 1) Mail or other direct delivery, and
2) Another method as needed to reach other persons regularly served by the system
 - NCWS: 1) Posting, or by mail or direct delivery, and
2) Another method as needed to reach other persons regularly served by the system
 - Systems must use these methods unless directed otherwise by the state in writing

Tier 3 - All Other Violations and Situations §141.204 (cont.)

- **Violations requiring Tier 3 public notice within 1 year**
 - Monitoring violations, except where a Tier 1 notice is required or the state determines a Tier 2 notice is required
 - Failure to comply with an established testing procedure, except where a Tier 1 notice is required or the state determines a Tier 2 notice is required

Tier 3 - All Other Violations and Situations §141.204 (cont.)

- Other situations requiring Tier 3 public notice within 1 year
 - Availability of unregulated contaminant monitoring results (under UCMR)
 - Operation under a variance or exemption
 - Exceedance of the secondary maximum contaminant level (SMCL) for fluoride

Tier 3 - All Other Violations and Situations §141.204 (cont.)

- Standard Language for Monitoring Violations
 - “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.”

Using the CCR as a Vehicle for Tier 3 Notice - §141.204(d)

- In order to use the CCR as a vehicle for Tier 3 Notices, a CWS must:
 - Provide the CCR to all persons served no later than 12 months after learning of the violation or situation
 - Distribute the CCR following the PN delivery requirements
 - Meet the PN requirements for content of Tier 3 public notices under §141.205

10 Required Elements of a Public Notice

- **Description of violation or situation**
- **When violation or situation occurred**
- **Potential health effects**
- **Population at risk**
- **Whether alternate water supplies should be used**
- **Actions consumers should take**
- **Corrective actions being taken**
- **When PWS will resolve problem**
- **Name, number, and address for additional information**
- **Standard distribution language**

Content Elements - 1 & 2

- **Descriptive title**
- **1) Description of the violation or situation**
 - **Contaminant(s) of concern**
 - **Levels at which contaminants are detected**
 - **Area of distribution system affected, if applicable**
- **2) When the violation or situation occurred**

Element 3 - Potential Health Effects

- Appendix B of the PN Rule contains mandatory health effects language for:
 - Maximum Contaminant Level (MCL) violations
 - Maximum Residual Disinfectant Level (MRDL) violations
 - Treatment Technique (TT) violations
 - Violations of a variance or exemption
 - PWS must also describe potential health effects for other situations, if any, even if there is no mandatory language

Content Elements - 4, 5, & 6

- **4) Population at risk**
 - Infants, elderly, immuno-compromised individuals
- **5) Whether alternate water supplies should be used**
- **6) Actions consumers should take**

Content Elements - 7, 8, & 9

- 7) What is being done to correct the violation or situation
- 8) When the system expects to return to compliance
- 9) Name, number, and business address for additional information

Content Element 10 - Standard Distribution Language

- **Standard language to encourage distribution of notices:**
 - “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.”

Standard Language for Public Notices

§141.205(d)

- **Health Effects Language for MCL, MRDL, and TT violations, and violations of variance or exemption**
 - Appendix B of the rule contains mandatory language
- **Language for Monitoring and Testing Procedure Violations**
 - Viewgraph 38 in PN Training Binder
 - PN Handbook - page 11
- **Language to encourage distribution of notices**
 - Displayed on previous slide

Variances and Exemptions

§141.205(b)

- PWS operating under a variance or exemption must:
 - Notify consumers within one year of obtaining variance or exemption, and
 - Repeat notice annually for as long as the variance or exemption exists
- Different content requirements for public notices for operation under a variance or exemption

Variances and Exemptions

§141.205(b) (cont.)

- **Content requirements:**
 - **Explanation of the reasons for variance or exemption;**
 - **Date on which the variance or exemption issued;**
 - **Status on steps being taken to comply with the terms and schedules of the variance or exemption; and**
 - **Notice of any opportunity for public input in review of variance or exemption**

Multilingual Requirement

§141.205(c)(2)

- For a PWS serving a large proportion of non-English speaking consumers, as determined by the State, the public notice must contain:
 - Information in the appropriate language(s) regarding the importance of the notice, or
 - A phone 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 language

Multilingual Requirement

§141.205(c)(2) (cont.)

- In cases where the State has not provided further guidance on what constitutes a large proportion of non-English speaking consumers, the PWS must include:
 - The same type of information, where appropriate, to reach a large proportion of non-English speaking consumers

Special Public Notices

- Availability of unregulated contaminant monitoring data (under UCMR) - §141.207
- Exceedance of the fluoride SMCL - §141.208
 - Standard language provided
- Nitrate exceedances above the MCL by non-community water systems, where granted permission by the primacy agency under §141.11(d) - §141.209

Formatting Requirements for Public Notices - §141.205(c)(1)

- **Display in a conspicuous way**
- **Don't include overly technical language or very small print**
- **Do not format in a way that defeats the purpose of the notice**
- **Do not include language which nullifies the purpose of the notice**

Certification Requirement

§141.31(d)

- A PWS must send a copy of the notice and a certification to the State within ten days of providing public notice to consumers
- A PWS must certify that all public notice requirements have been met and that any future requirements for notifying new billing units of the violation or situation will be met
- Certification must be sent for both initial and repeat notices

State Reporting and Recordkeeping

- **Recordkeeping - §142.14:**
 - States are required to keep copies of public notices and certifications for a period of three years
- **Reporting- §142.15:**
 - States must report PN violations to SDWIS/FED 45 days after the quarter in which the violation occurred

State Rule Adoption and Primacy Revision Applications

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Primacy Requirements

- §1413 of SDWA
- 40 CFR 142
- Primacy Rule
 - Interim Primacy Provision
 - Increased time period to adopt federal rules
 - Administrative penalty authority
 - Expanded definition of a Public Water System (PWS)

Primacy Rule: Interim Primacy Provision

- Grants interim primary enforcement authority to states while their applications to modify existing primacy programs are under review
- Begins on the date of the submission of a complete and final primacy revision application or the effective date of the state regulation, whichever is later
- Ends when a final determination is made under 40 CFR 142.12(d)(3)

Primacy Rule: Interim Primacy Provision (cont.)

- **Prerequisites for interim primacy - 40 CFR 142.12(e)**
 - State must have an approved primacy program for all NPDWRs promulgated to date when a new or revised regulation is promulgated
- **Combining primacy revision applications**
 - States may combine two or more rules in one revision package and receive interim primacy for both
 - Interim primacy then treated as full primacy for other rules included in the application

Primacy Revision Applications

- Must be submitted following the procedures in 40 CFR 142.12 (b) to (d)
- States must submit a complete and final primacy revision application by May 6, 2002, unless they have been granted an extension

Primacy Revision Applications: Content

- **State primacy revision checklist**
- **Text of the state's regulation**
- **Primacy revision crosswalk**
- **Checklist of state reporting and recordkeeping requirements**
- **Special primacy requirements checklist**
- **Attorney General's statement of enforceability**

State Primacy Checklist

(Example Format)

Required Program Elements		Revision to State Program (Yes or No)	EPA Findings/Comments
§142.10	Primary Enforcement		
§142.10(a)	Regulations No Less Stringent		
§142.10(b)(1)	Maintain Inventory		
§142.10(b)(2)	Sanitary Survey Program		
§142.10(b)(6)(v)	Authority to Require Public Notification		

Primacy Revision Crosswalk

(Example Format)

FEDERAL REQUIREMENT	FEDERAL CITATION	STATE CITATION Document title; page number; and section or paragraph	If different than federal requirement, note here and explain on separate sheet
Changes to Other Rules	several cites		
General Requirements	§141.201		
Tier 1 Public Notice Requirements	§141.202		

State Reporting and Recordkeeping Checklist

(Example Format)

Requirement	Are State policies consistent with federal requirements? If not, explain
§142.14 (f) - Records kept by the States	
Public notification records under Subpart Q of part 141 received from public water systems (including the certifications and copies of the public notice) and any State determinations establishing alternative public notification requirements for the water systems must be retained for three years.	
§142.15 (a)(1)	
New violations by public water systems in the State during the previous quarter of State regulations adopted to incorporate the requirements of national primary drinking water regulations, including violations of the public notification requirements under Subpart Q of part 141.	

Special Primacy Requirements Checklist

(Example Format)

Requirement	Are State policies consistent with federal requirements? If not, explain
<p>§142.16(a)(1):</p> <p>At its option, a State may, by rule, and after notice and comment, establish alternative public notification requirements with respect to the form and content of the public notice required under subpart Q of part 141. The alternative requirements must provide for the same type and amount of information required under subpart Q and must be designed to achieve an equivalent level of public notice of violations as would be achieved under subpart Q of part 141.</p>	
<p>§142.16 (a)(2): As part of the revised primacy program, a State must also establish enforceable requirements and procedures when the State opts to add to or change the minimum requirements under:</p> <p>(i) <u>Table 1 to 40 CFR 141.201(a) (Item 3v):</u></p> <p>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.</p>	

Special Primacy Requirements

§142.16(a)(2)

- 10 special primacy requirements
 - For each special primacy requirement which a State chooses to adopt, the state must explain in their primacy revision package how the requirement will be met
- Summary of Special Primacy Requirements
 - To require a PWS to give public notice for violation or situations other than those listed in Appendix A of the Rule

Special Primacy Requirements

§142.16(a)(2) (cont.)

- To elevate the status of a violation or other situation
 - To require a PWS to give a Tier 1 (rather than a Tier 2 or 3) public notice for violations or situations listed in Appendix A
 - To require a PWS to give a Tier 2 rather than a Tier 3 public notice for monitoring or testing procedure violations specified by the State
- To allow a PWS, under specific circumstances listed in §141.201(c)(2), to limit distribution of the public notice to persons served by the portion of the system that is out of compliance

Special Primacy Requirements

§142.16(a)(2) (cont.)

- Tier 1:

- To require a PWS to comply with additional Tier 1 public notification requirements set by the State subsequent to the initial 24-hour notice
- To respond within 24 hours to a request for consultation by the PWS 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

Special Primacy Requirements

§142.16(a)(2) (cont.)

- Tier 2:

- To grant a PWS an extension up to three months for distributing the Tier 2 public notice in appropriate circumstances (other than those specifically excluded in the rule)
- 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

Special Primacy Requirements

§142.16(a)(2) (cont.)

- To require a different form and manner of delivery for Tier 1, 2, and 3 public notices**
- To determine a specific multilingual requirement for a PWS, including defining a large proportion of non-English speaking consumers**

Attorney General's Statement of Enforceability

(Example Format)

I hereby certify, pursuant to my authority as _____(1)_____ and in accordance with the Safe Drinking Water Act as amended, and _____(2)_____, that in my opinion the laws of the State [Commonwealth] of _____(3)_____ [or tribal ordinances of _____(4)_____] to carry out the program set forth in the "Program Description" submitted by the _____(5)_____ have been duly adopted and are enforceable. The specific authorities provided are contained in statutes or regulations that are lawfully adopted at the time this Statement is approved and signed and will be fully effective by the time the program is approved.

Seal of Office

Signature

Name (Type or Print)

Title

Date

- (1) Attorney General or attorney for the primacy agency if it has independent legal counsel
- (2) 40 CFR 142.12 (c)(1)(iii) for final requests for approval of program revisions
- (3) Name of State or Commonwealth
- (4) Name of Tribe
- (5) Name of Primacy Agent

Primacy Revision Applications: Extension Procedures

- State extension request must include a schedule for submission of a final request
- Sufficient information to demonstrate that:
 - The state cannot submit a package because of one of the reasons below:
 - Currently lacks the legislative or regulatory authority for enforcement; or
 - Currently lacks the program capability to implement; or
 - Is requesting the extension to Group 2 or more program revisions; and
 - The state is implementing the requirements within the scope of its current authority and capabilities

Primacy Revision Applications: The Review Process

- EPA recommends a 2-step process
 - Submission of draft request (optional)
 - Submission of complete and final request
- For complete and final revision applications
 - Review process: 90 Days
 - Time split equally between regions and HQ: 45 Days
 - Regional review (program and regional counsel)
 - HQ Review (OGWDW, OECA, OGC)

Primacy Revision Applications: The Review Process (cont.)

- May 4, 2000
 - Final PN Rule published
- Feb. 2001
(9 months later)
 - State submits *Draft* primacy revision package (optional)
- Feb. 2002
(21 months later)
 - State submits “complete and final” primacy revision package early
- May 6, 2002
(24 months later)
 - EPA review and determination

Public Notification Violations and Enforcement

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What are the PN Violations?

- **Trigger point for PN:**
 - When PWS learns violation or other situation posing a health risk exists
- **Rule prescribes specific actions PWS must take to:**
 - Distribute the notice
 - Provide state with a copy of notice
 - Certify that all PN requirements were met
- **If a PWS fails to take specified actions, there is a PN violation**

How is a PN Violation Identified?

- If a PN violation occurs, the PWS may be subject to enforcement action
- EPA anticipates that states will primarily rely on the certification to track whether a PWS has met all the PN requirements
 - States and/or EPA may use additional methods to identify PN violations

How is a PN Violation Identified?

- States are expected to record a PN violation if:
 - State did not receive copies of the public notice (initial or repeat) or certification, or state received documents late
 - After review, the state concludes that:
 - The form, delivery, or content of the initial or repeat notice was inadequate; or
 - Otherwise determines the timing or distribution requirements were not met

Reporting to EPA and EPA Follow-up (cont.)

- States must report PN violations to SDWIS/FED on a quarterly basis
- Under the revised PN rule, states will report the following information:
 - Whether there is a PN violation for the public notice (initial, repeat, certification);
 - Date of the PN violation;

Reporting to EPA and EPA Follow-up (cont.)

- Link to the underlying NPDWR violation;
 - When the PWS has returned to compliance; and
 - Whether the state brought formal enforcement action
-
- The State or EPA may bring an enforcement action for any PN violation

Return to Compliance (RTC) Definition

- When PN violations occur in addition to an underlying violation for which the state or EPA brings an enforcement action, the state or EPA should include PN violations as part of the enforcement action for the underlying violation
- Return to Compliance (RTC):
 - A PWS that has violated the PN Rule returns to compliance with the rule when it performs the action required under the rule

Additional Information

- **For additional information on PN violations and enforcement contact:**
 - **Cheryl Rose**
 - **Office of Enforcement and Compliance Assurance**
 - **202-564-4136**
 - **rose.cheryl@epa.gov**

SDWIS Reporting

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Introduction

- **Effective Date**
- **SDWIS/FED Implementation**
- **Violation types**
- **Noncompliance portrayal**
- **PN linking to NPDWR violations**
- **Enforcement/Follow-up actions and linking**
- **Significant Non-Compliance (SNC)**
- **Data transfer file format (DTF) - as time allows**

Effective Date for SDWIS/FED

- **Most requirements/provisions are effective 180 days after PN Regulation was published (5/4/2000)**
- **SDWIS/FED implementation date July 15, 2001 - earliest date for reporting new requirements and codes**
- **Option to report under old or new until 5/5/2002**

SDWIS/FED Implementation

- **SDWIS/FED will not convert pre-existing PN violations data**
- **PN violations MUST be reported as violations not as enforcement follow-up actions**
- **Provide warning messages in Errors Reports about 6 months prior to deadline**
- **After May 5, 2002, data which is not consistent with new requirements will be rejected**

SDWIS/FED Tier Implementation

- PN Tier defines the type, language, and frequency of PN required
- States may choose to elevate the PN Tier for a particular type of violation
 - Must document in State records
- No direct reporting of PN violation tiers required

New PN Noncompliance Portrayal

- **Old Method:**
 - Begin and end dates same as fixed monitoring/compliance period of NPDWR requirement
- **New Method:**
 - Begin date is day after the PN deadline, and
 - End date is the day the system returned to compliance as determined by the state

Noncompliance Portrayal Implementation

- The violation period end date is not reported
- SDWIS/FED defaults the end date with December 31, 2015
- Once the return to compliance enforcement/follow-up action record is submitted and linked to the PN violation(s), SDWIS/FED replaces the PN violation/compliance period end date with the return to compliance record's action date

PN Significant Noncompliance SNCs

- **No NEW SNC definition at this time.**
- **Currently:**
 - SNC based on underlying NPDWR violation's SNC definition
 - PN violations addressed with NPDWR violations
 - Addressed with appropriate formal enforcement action, or
 - Meets appropriate RTC definition (See SNC definitions in EPA's Water Supply Guidance)
- **SNC definition may be revised**

PN Enforcement/RTC Reporting

- **Continued reporting required for all formal enforcement actions**
- **New requirement for reporting when return to compliance is achieved (RTC)**
- **Both must be linked to PN violations**

PN Enforcement Link Methods

- Associated Violation IDs (Y5000) -
 - FY & VIOLATION ID NUMBER
- Associated Violation Contaminant Groups (Z5000)
 - TYPE,
 - CONTAMINANT/RULE,
 - COMPLIANCE PERIOD BEGIN DATE (YR, MO, & DAY)

Enforcement Actions List

- Complete List of Enforcement/Follow-up Actions
 - Those coded with an “F” in the second position are FORMAL actions and are required to be reported
 - “I” = Informal
 - “O” = Other

Note: SOX = RTC or Compliance Achieved is required.

Those in Bold marked with an “ * ” indicate they address an SNC and must be reported

PN Violation Data Elements

- **Number** **Format** **Description**
- C1101 Char 7 Violation ID
- C1103* Char 4 Contaminant/Rule Code = 7500
- C1105 Char 2 Violation Type Code
- C1107** Date 8 Violation/Compliance Period Begin Date
- C1109 Date 8 Violation/Compliance Period End Date NOT REPORTED
 BY STATE - defaulted by SDWIS/FED
- C1144 A/N 40 Underlying NPDWR ID (link)
- C1145 A/N 40 Underlying NPDWR Violation Details (Vio Type Code / SEID
 Contaminant/Rule Code / Vio/Compliance Period Begin Date
 - * C1103 will be defaulted by SDWIS/FED or may be provided
 - ** C1107 official data standard format is YYYY/MM/DD; however, MM/DD/YYYY is OK

PN Violation Identifier

- **Record Identifier (9901039)**
 - 7 digit number
 - Identifies related data elements to SDWIS/FED
 - Positions 1-2 must be FFY violation identified/ issued by state
 - Used to link violations to violations or enforcements to violations
 - Can be generated by SDWIS/FED (CURRENTLY)

New Applicable Codes

- Rule Code - 7500
- Violation Type Codes
 - 75 - PN violations for NPDWR violations
 - 76 - Other Potential Health Risk Situation PN Violations (Non-NPDWR)
 - Waterborne disease outbreak/ Emergencies
 - Variance or Exemption
 - Other
- No separate violation type codes for Repeat PN violations - considered separate notice events

PN Link to NPDWR Violation

- **2 LINK options:**
 - C1144 Report the record identifier of the NPDWR violation or,
 - C1145 Report the substantive detail information of the underlying NPDWR violation:
 - violation type code, contaminant/rule code, violation/ compliance period begin date, and the source entity identification number (when appropriate)
- **One - to - One relationship between PN and underlying NPDWR violation enforced in SDWIS**

SDWIS/FED Reporting Schedule

Violations and return to compliance data must be reported to SDWIS/FED within 45 days after the quarter in which the violation occurred, or in which the system returned to compliance.

Summary - PN Violations

- **PN required for all violations of NPDWR**
- **PN MUST be performed**
- **PN violation must be linked to the NPDWR violation(s) or will be rejected (P5000, N5000)**
 - ◆ Rule Code = 7500
 - ◆ Violation Type Code = 75 and 76
 - ◆ Violation Begin Date = day after the PN deadline
 - ◆ Violation End Date defaulted to 12/31/2015
- **RTC reporting required - RTC date replaces defaulted end date**

Public Notification Compliance and Reporting Examples

RN



PN for NPDWR Violation

Example

The system fails to collect the required number of copper samples during the June - September 2000 annual monitoring period. The system also failed to provide certification and/or a copy of the PN to the State.

- 1. What PN tier is the copper tap M/R violation?**
 - 2. When was the PN to be delivered to persons served?**
 - 3. What is the date of the PN violation?**
 - 4. What is the PN violation type code?**
-
- | | |
|----------------------------|--|
| 1. Tier 3, | 2. Within 12 months of violation, |
| 3. October 1, 2001, | 4. 75 |

Reporting PN Violation of NPDWR Violation

D1 YY0099239 0200014	C1103 7500	000122
D1 YY0099239 0200014	C1105 75	000122
D1 YY0099239 0200014	C1107 20011001	000122
D1 YY0099239 0200014	C1144 0100072	000122

Note: The Copper M/R violation was 10/01/00, type 52, contaminant code 5000, violation ID was 0100072.

D1 YY0099239 0200014	C1103 7500	000122
D1 YY0099239 0200014	C1105 75	000122
D1 YY0099239 0200014	C1107 20011001	000122
D1 YY0099239 0200014	C1145 50005220011001	000122

E1 YY0099239 0300104	C1203 20021212	000321
E1 YY0099239 0300104	C1205 SOX	000321
E1 YY0099239 0300104	Y5000 0200014	000321

PN Operating Under Exemption or Variance

Example

PWS applies “Best Darn Treatment Available” and is granted a Variance from the XYZ MCL on September 12, 2001. The PWS fails to notify the persons served and the State issues a PN violation.

- 1. What tier is this PN violation?**
- 2. When was the PN to be delivered to persons served?**
- 3. What is the date of the PN violation?**
- 4. What is the PN violation type code?**
- 5. What else is the system required to do?**

PN Operating Under Exemption or Variance

Example: PWS applies “Best Darn Treatment Available” and is granted a Variance from the XYZ MCL on September 12, 2001. The PWS fails to notify the persons served and the State records a PN violation.

- 1. What tier is this PN violation? - Tier 3**

- 2. When was the PN to be delivered to persons served?**
 - Within 12 months of being granted the Variance**

- 3. What is the date of the PN violation? - Sept. 13, 2002**

- 4. What is the PN violation type code? - 77**

- 5. What else must PWS do?**
 - Repeat Notice Annually for duration of Variance**

Reporting PN Operating Under Exemption or Variance

D1 CT0099233 0200147	C1103 7500	000224
D1 CT0099233 0200147	C1105 77	000224
D1 CT0099233 0200147	C1107 20020913	000224

Note: There is no underlying NPDWR violation for a variance PN; therefore no link data is required.

If the notice was provided December 12, 2002, you would report the following:

E1 CT0099233 0300104	C1203 20021212	000321
E1 CT0099233 0300104	C1205 SOX	000321
E1 CT0099233 0300104	Y5000 0200147	000321

Violation Period End Date

The SDWIS/FED defaulted violation period end date of 12/31/2015 is replaced with the RTC date when linked to the PN violation. SDWIS/FED would display the following:

Rule/Contam: 7500 (Public Notification Rule)

Violation type: 76 (Failure to notify operating under a variance)

Viol. begin date: 09/13/2002 (First day of violation)

Viol end date: 12/12/2002 (Date RTC)

Note: Link data is not stored in the violation record

PN Bonus Question

Which of the following are NOT one of the TEN required elements of a public notice?

- **Should alternate water be used**
- **Source of water used**
- **Name of operator responsible for problem**
- **Phone number of State contact**
- **Web address for PWS**

SDWIS/FED Reporting

General Information

RN



SDWIS/FED Reporting General Information

All PN data is required to be reported to SDWIS/FED within 45 days after the end of the quarter in which the monitoring was to be completed, compliance determined, and or enforcement/follow-up actions were completed, issued, made or taken.

Data review and error correction should be completed by the 90th day after the end of the quarter.

The Production Database is frozen on or about the 5th day of the 4th month after the end of the quarter and the data is provided to EPA's ENVIROFACTS web site for public access.

SDWIS/FED Reporting Information Resources

SDWIS/FED Documentation: EPA Home Page

WWW.EPA.GOV/SAFEWATER/SDWISFED/SDWIS3.htm

- EPA Regional Data Management Coordinators
- SDWIS/FED User Support: Joe Lewis 202-260-7079
- SDWIS/FED Production Control/Help Line: 703-292-6121
- SDWIS/FED Technical Info: Fran Haertel 214-665-8090
- PN Implementation: Kathleen Williams 202-260-2589

Public Notification Data Transfer Format (DTF)

RN



Data Transfer Format (DTF)

- DTF transactions are 80 characters long
- DTF is the only way to get data into SDWIS/FED, except for SETS (restricted to EPA)
- Single DTF transaction is required for each piece of data to be inserted, modified, or deleted, except for Enforcement Linking

Data Transfer Format (DTF)

DTF Transaction Format

Form ID	Data Qualifiers			Action Code	Data Element Number	Data Element Value	N/A	Batch Seq. Number
	Qual 1	Qual 2	Qual 3					
1 - 2	3-11	12-18	19-25	26	27-31	32 - 71	72-74	75 - 80

Data Transfer Format (DTF)

DTF Content - Form ID Illustrated

A2 NH0199050	C0117 25	990224
A2 NH0199050	C0147 0000010	990224
A2 NH0199050	C0163 4	990224
A2 NH0199050	C0165 B	990224
A2 NH0199050	C0159 0101	990224
A2 NH0199050	C0161 1231	990224
B1 NH0199050 001	C0403 BRW 1, 85' WEST OF BLDG	990224

NOTE: Blank spaces have been inserted between DTF Components above for clarity

Data Transfer Format (DTF)

DTF Content - Form IDs and Data Qualifiers

FORM

ID	FORM NAME	Record	QUAL 1	QUAL 2	QUAL 3
A1	System Address Data	100	PWS-ID		
A2	PWS Characteristics Data	200	PWS-ID		
A3	Other Address Data	300	PWS-ID	ADDRESS-ID	
B1	Source/Entity Data	400	PWS-ID	SE-ID	
B1(2)	Location Data		PWS-ID	SE-ID	
B2	Treatment Data	480	PWS-ID	SE-ID	TREATMENT-ID
B3	Facility Flow Data	A5000	PWS-ID	SE-ID	
B4	Treatment Plant Address Data	350	PWS-ID	SE-ID	

Data Transfer Format (DTF)

- Complete list of DTF
 - Form IDs
 - Names
 - Qualifiers

Data Transfer Format (DTF)

DTF Content - Data Qualifiers Illustrated

Example of Valid user-assigned IDs

A2 NH0199050	C0159 0101	990224
A2 NH0199050	C0161 1231	990224
B1 NH0199050 001	C0403 BRW 1, 85' WEST OF BLDG	990224
B1 NH0199050 001	C0405 S	990224
B1 NH0199050 001	C0407 G	990224
B1 NH0199050 001	C0409 P	990224
B2 NH0199050 001 01	C0483 D	990224
B2 NH0199050 001 01	C0485 423	990224

NOTE: Blank spaces have been inserted between DTF Components above for clarity

Data Transfer Format (DTF)

DTF Content - Data Qualifiers Illustrated

Example of Group Generation Codes (GGC)

B1 NH0199050 G01	I C0403 BRW 1, 85' WEST OF BLDG	990224
B1 NH0199050 G01	I C0405 S	990224
B1 NH0199050 G01	I C0407 G	990224
B1 NH0199050 G01	I C0409 P	990224
B2 NH0199050 G01 G1	I C0483 D	990224
B2 NH0199050 G01 G1	I C0485 423	990224
B2 NH0199050 G01 G2	I C0483 P	990224
B2 NH0199050 G01 G2	I C0485 344	990224

NOTE: Blank spaces have been inserted between DTF Components above for clarity

Data Transfer Format (DTF)

DTF Content – Action Code Illustrated

A2 NH0199050	M C0117 25	990224
B1 NH0199050 001	D C0300	990224
B2 NH0199050 002 01	I C0483 D	990224
B2 NH0199050 002 01	I C0485 423	990224

NOTE: Blank spaces have been inserted between DTF Components above for clarity

Data Transfer Format (DTF)

DTF Content – Data Element Number (Record Numbers)

- Used in DTF ONLY to identify entire records in SDWIS/FED to be deleted in a traditional update
- Valid record numbers are shown on the *Record Deletion Form*

Data Transfer Format (DTF)

DTF Content – Record Number

A1 NH0199050		D C0100	990224
A2 NH0199050		D C0200	990224
A3 NH0199050 1		D C0300	990224
B1 NH0199050 001		D C0400	990224
B2 NH0199050 001	01	D C0480	990224
B3 NH0199050 001		D A5000	990224
B4 NH0199050 001		D C0350	990224
C1 NH0199050 00001		D C0500	990224
C2 NH0199050 00001		D C0600	990224
C3 NH0199050 00001		D C0700	990224
C4 NH0199050 0001		D C0800	990224
D1 NH0199050 9900001		D C1100	990224
E1 NH0199050 9900001		D C1200	990224
F1 NH0199050 9900001		D C3000	990224
F2 NH0199050 9900001 01		D C3100	990224
H1 NH0199050 00001		D C2100	990224

NOTE: Blank spaces have been inserted between DTF Components above for clarity

Data Transfer Format (DTF)

DTF Content – Data Element Deletion

- To Delete Data Element
 - Modify the Record
 - Use “M” Action Code
 - Place “\$” in Data Value field
- Example:
 - E1 UV1234567 9900221 M C1213 \$

Data Transfer Format (DTF)

DTF Content – Batch Sequence Number

- Used to sequence update events in traditional updates only... not used in total replace updates
- Lowest number processed first
- Alpha/numeric format

Data Transfer Format (DTF)

DTF Content – Batch Sequence Number

Enforcement Won't be Linked to Violation - Why?

VIOLATION:

D1 CT0099233 0200147	I C1103 7500	990224
D1 CT0099233 0200147	I C1105 75	990224
D1 CT0099233 0200147	I C1107 20020701	990224
D1 CT0099233 0200147	I PN000 0200141	990224

ENFORCEMENT:

E1 CT0099233 0200144	I C1203 20021011	990223
E1 CT0099233 0200144	I C1205 SIF	990223
E1 CT0099233 0200144	I Y5000 0200147	990223

NOTE: Blank spaces have been inserted between DTF Components above for clarity

Data Transfer Format (DTF)

Review

DTF Transaction Format

DTF Content

Questions?

EPA Resources for Information on the PN Rule

- SDWA Hotline: 1-800-426-4791
- EPA's Web site:
www.epa.gov/safewater/publicnotification/
 - *PN Rule (40 CFR Part 141, Subpart Q)*
 - *PN Handbook*
 - *Fact sheet about the PN Rule and revisions*
 - *Quick Reference Guide*
 - *State Implementation Guidance for the PN Rule*