

Date Signed: December 19, 1990

MEMORANDUM

SUBJECT: Final SNC Definition for the TCR and Proposed SNC
Definition for the SWTR

FROM: Connie Bosma, Chief (signed by Connie Bosma)
Drinking Water Branch, ODW (WH-55OE)

TO: Drinking Water/Ground Water Protection Branch Chiefs
Regions I - X

During the Drinking Water Branch Chief's Meeting, held during the week of December 3, 1990, agreement was reached on the SNC definition for the Total Coliform Rule (TCR). We could not come to a consensus on the SNC definition for the Surface Water Treatment Rule (SWTR). However, the discussions at the meeting prompted us to propose the approach in this memo.

Final SNC Definition for the TCR:

The definition for SNCs for the TCR is provided as Attachment 1. Implementation of this definition will be done using a transition plan that will phase-in the new definition over two quarters. For the first calendar quarter of 1991, (data due to FRDS June 1, 1991, SNC list run July 1, 1991), two SNC lists will be generated. The first SNC list will use the current definition. The States and Regions will be required to take timely and appropriate actions against the systems on this list. A second SNC list will be run using the new definition to give States and the Regions an idea of the impact that the new SNC definition will have. For the second calendar quarter of 1991, (data due to FRDS September 1, 1991, SNC list run October 1, 1991), the new SNC definition will be used.

For the reporting periods beginning January 1991, April 1991 and July 1991, SNC determination (using the new SNC definition) will be done using violation data from the new TCR and the current coliform rule. For the purpose of SNC determination, violations of the current coliform rule will translate to violations of the new TCR as follows. Monitoring and Reporting (M&R) violations, Major and Minor, from the current rule will count as Major Routine and Minor Routine. MCL violations of the current rule will count as Monthly MCL violations.

For the reporting period beginning January 1991, the current SNC definition will be used with violation data from the current coliform rule and the new TCR. For the purpose of SNC determination, violations of the new TCR will translate to violations of the current coliform rule

as follows. Minor Repeat and Minor Routine M&R violations from the new TCR will count as Minor M&R violations. Major Repeat and Major Routine M&R violations from the new TCR will count as Major M&R violations. MCL violations under the new TCR consist of Monthly and Acute violations. Both will count simply as MCL violations.

In discussions on the new SNC definition, questions were raised as to how to treat a PWS which monitors at different frequencies during a one year period. Currently, if a system on quarterly monitoring has a violation and the State then elects to put that system on monthly monitoring, if the system incurs another violation, our policy dictates that the system becomes an SNC. This is because we currently use the most stringent criteria (the quarterly criteria) for SNC determination.

As of January 1, 1991, we will change the above approach because we believe it does not take into account the added protection to public health provided by an increased monitoring frequency. Starting January 1, 1991, the "current monitoring frequency" rather than the "monitoring frequency with the most stringent SNC criteria" will be used in SNC determination. In the above case, then, the system would be allowed 4 MCL violations because it would be evaluated under the criteria for systems on monthly monitoring.

Proposed SNC Definition for the SWTR:

As stated earlier, during the Branch Chief's Meeting we were unable to come to a consensus on a final SNC definition for the SWTR. (Attachment 2 is the proposed SNC definition for the SWTR.) Disagreement centered around unfiltered systems. Specifically, the Branch Chiefs wanted more discussion of the method(s) we will use to ensure that unfiltered systems that are required to filter install filtration in a timely manner. In this memorandum we propose an enforcement protocol to deal with unfiltered systems that are required to install filtration.

We believe that the SWTR is high priority and that we should aggressively implement and enforce its requirements. Our SNC definition should reflect this priority. Moreover, once we identify a system as an SNC, it must be addressed in a timely and appropriate manner. Our guidance on timely and appropriate actions states that systems identified as SNCs must be addressed by appropriate actions within six months of becoming SNCs. Timely and appropriate actions consist of State or Federal Administrative Orders AOs, State or Federal Civil Referrals, criminal cases, or Bilateral Compliance Agreements (BCAs). BCAs must be signed by both parties and must include a compliance schedule.

The proposed SWTR SNC definition states that if a PWS is unfiltered and required to filter, and fails to install filtration by June 29, 1993 or within 18 months of the State determination that filtration is required (whichever is later) the PWS becomes a SNC. However, if an appropriate action is in place by the deadline for the installation of filtration, the system will be listed as an addressed SNC. Regions and States should monitor systems' progress towards compliance with the SWTR.

We believe that it is appropriate for systems of different sizes to be addressed by different appropriate actions. For example, we do not believe it is appropriate to address a major system with a BCA. While BCAs are appropriate actions, they are not independently enforceable. Therefore, States and Regions should not use BCAs for systems that serve more than 10,000 persons. However, smaller systems can be addressed by any appropriate action.

Implementing the SWTR is high priority and SWTR SNCs must be addressed as soon as possible to send a message to the States and the systems. Informing States and systems of our enforcement priorities will enable them to better use scarce resources.

Please comment on the SNC definition for the SWTR by January 11, 1991. We are especially concerned that we receive your input on the enforcement approach we propose for unfiltered surface water systems that are required to filter. We will develop a detailed policy on the issues in this memorandum that will include guidance to the Regions.

Please call Clive Davies at (202) 260-1421 or Betsy Devlin at (202) 564-2245 with any questions.

Attachments

cc: Office of Enforcement (Kathy Summerlee)
Bob Blanco
PWSS Enforcement Coordinators, Regions I - X
Wade Miller (ASDWA)

REVISED BREAKDOWN OF M/R VIOLATIONS -- TCR

ROUTINE:

Major: A system that fails to take all (takes no samples) of the required routine samples per compliance period.

Minor: A system that fails to take some (but not all) of the required routine samples in a compliance period.

REPEAT:

Major: A system that does not conduct follow up monitoring after a total coliform-positive sample (i.e., takes no repeat samples and/or conducts no speciation for fecal/E. coli).

Minor: A system that fails to take some of the required repeat samples and/or a system that fails to speciate at least one (but not all) total coliform-positive samples for fecal/E. coli).

PROPOSED SNC DEFINITION FOR THE TCR

SNCs (Tier 1):

- Systems on Monthly Monitoring:
 - a system that has 4 or more combined MCL or major repeat M/R violations in any 12 consecutive months,
-or-
 - a system that has 6 or more combined MCL or major repeat or major routine M/R violations in any 12 consecutive months,
-or-
 - a system that has 10 or more combined MCL or M/R violations (major or minor) in any 12 consecutive month,
- Systems on Quarterly Monitoring:
 - a system that has 3 or more combined MCL and/or major repeat or major routine M/R violations in any 4 consecutive quarters,
- Systems on Annual Monitoring:
 - a system that has 2 or more MCL and/or major repeat or major routine M/R violations in any 2 consecutive years,

Tier 2:

- Systems on Monthly Monitoring:
 - a system that has 2 or 3 combined MCL or major repeat M/R violations in any 12 consecutive months,
-or-
 - a system that has 4 or 5 combined MCL or major repeat or major routine M/R violations in any 12 consecutive months,
-or-
 - a system that has 5 to 9 combined MCL or any M/R violations (major or minor) in any 12 consecutive months,

- Systems on Quarterly Monitoring:
 - a system that has 1 or 2 combined MCL and/or major repeat or major routine M/R violations in any 4 consecutive quarters,
- Systems on Annual Monitoring:
 - a system that has any violation of the TCR major repeat or major routine M/R requirements and/or MCL,

Tier 3:

- All other MCL and/or M/R violators (for all monitoring frequencies).

*Attachment 2 - SWTR SNC Definition***PROPOSED SNC DEFINITION FOR THE SWTR****Unfiltered Systems****SNCs (Tier 1):**

- A system informed of the requirement to filter before Jan., 1992 that does not install filtration by June 29, 1993,
-or-
- A system informed of the requirement to filter after December 1991 that does not install filtration within 18 months of being informed that filtration is required,
-or-
- A system that has 3 or more M/R violations in any 12 consecutive months,

Tier 2:

- A system that has 2 M/R violations in any 12 consecutive months, Tier 3:
- All other violators.

Filtered Systems**SNCs (Tier 1):**

- A system that has 4 or more treatment technique violations in any 12 consecutive months,
-or-
- A system that has a combination of 6 violations including treatment technique violations and M/R violations in any 12 consecutive months,

Tier 2:

- A system that has 2 or 3 treatment technique violations in any 12 consecutive months,
-or-
- A system that has a combination of 3, 4 or 5 violations including treatment technique violations and M/R violations in any 12 consecutive months,

Tier 3:

- All other violators.