



Final Drinking Water Public Notification Regulations

WHAT IS PUBLIC NOTIFICATION?

Public notification is intended to ensure that consumers will always know if there is a problem with their drinking water. Public water systems must notify the people who drink their water if the level of a contaminant in the water exceeds Environmental Protection Agency (EPA) and State drinking water regulations, if there is a waterborne disease outbreak or any other situation that may pose a risk to public health, if the water system fails to test its water as required, or if the system has a variance or exemption from the regulations. Depending on the severity of the situation, water suppliers have from 24 hours to one year to notify their customers. EPA sets strict requirements on the *form, manner, content, and frequency* of public notices. Public notification is provided in addition to the annual water quality report (consumer confidence report, or CCR), which provides customers with a more complete picture of drinking water quality and system operations. The annual CCR tells consumers what's in their water, where it comes from, and where they can obtain additional information.

In fiscal year 1998, there were more than 124,000 violations of drinking water regulations requiring a public notice, involving over 25 percent of the 170,000 public water systems. Over 90 percent of the violations were for failure to fully meet the monitoring or testing procedure requirements. Fewer than 1.5 percent of the violations posed an immediate risk of adverse health effects from short-term exposure.

WHAT ACTION IS EPA TAKING?

EPA published final regulations in the *Federal Register* on May 4, 2000 (65 FR 25981) to revise the general public notification regulations. The revised regulations require faster notice in emergencies and fewer notices overall, and will result in notices that better communicate the potential health risks from drinking water violations and how to avoid such risks. The new rule will enable water systems to better target notices to the seriousness of the risk and make the existing notification process less burdensome for water suppliers and make notices easier to read for consumers.

The revised regulations (under 40 CFR Part 141, subpart Q) are effective on June 5, 2000. However, they do not apply to public water systems in States with approved primacy programs

until May 6, 2002, unless a primacy State chooses to adopt the new requirements earlier. Public water systems where EPA directly implements the drinking water program (i.e., Wyoming, Washington, D.C., and Tribal lands) must start complying with the new regulations on October 31, 2000. EPA proposed the public notification rule revisions on May 13, 1999 (64 FR 25963).

Copies of the final regulation may be obtained by calling the Safe Drinking Water Hotline at 800/426-4791 or by downloading documents from EPA's web site (www.epa.gov/safewater/pn.html).

WHAT CHANGES WERE MADE TO THE PUBLIC NOTIFICATION REQUIREMENTS?

- **24-hour notice.** Water systems are required to distribute Tier 1 notices in 24 hours (instead of 72) for violations posing acute health risks due to short-term exposure. The number of violations and situations requiring a Tier 1 notice were significantly expanded from the previous rule.
- **Consultation requirement.** Water systems must consult with the State or EPA within 24 hours of a Tier 1 violation to receive direction on subsequent requirements.
- **30-day notice for other serious violations.** The notice deadline for violations of maximum contaminant levels or treatment techniques which do not pose an immediate threat to human health is extended from 14 days to 30 days, with possible extension to 3 months (Tier 2).
- **12-month notice for non-serious violations.** The notice deadline for all other violations is extended from 3 months to 12 months, allowing a single annual report where applicable (Tier 3). Systems may choose to include this notice in their annual consumer confidence report.
- **Simplified standard language.** The existing standard health effects language is simplified, consistent with the consumer confidence report (CCR) requirements. New standard language is now required for monitoring violations. Recipients of public notices are also encouraged, through standard distribution language in notices, to further distribute the notices to people who may not receive a notice (such as tenants or hospital patients).
- **Streamlined distribution of notices.** Under the previous rule, water systems were required to use specific *multiple* delivery methods when distributing notices. The revised rule requires water systems to select a *single* minimum method for each tier from a regulatory list and to take additional steps of their own choosing that are reasonably calculated to reach all the other persons served. The minimum required methods of delivery listed in the revised regulation include the media, hand delivery, or posting for tier 1 notices, and direct mail, hand delivery, or posting for Tier 2 and Tier 3 notices.

- **Certification of Compliance.** The revised rule requires a water system to certify to the State or primacy agency within 10 days that it has met all public notice requirements. The previous rule required only that a copy of the notices be sent to the State.

HOW DOES THE FINAL REGULATION WORK?

The final regulation divides public notice into three tiers:

- **Tier 1**, for 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.
- **Tier 2**, for other violations and situations with potential to have serious, but not immediate, adverse effects on human health. Notice is required within 30 days, or as soon as possible, with extension of up to three months for resolved violations at the discretion of the State or primacy agency.
- **Tier 3**, for all other violations and situations not included in Tier 1 and Tier 2. Notice is required within 12 months of the violation, and may be part of a single annual report, including in some cases the annual CCR already required by EPA.

What types of violations and situations are covered under each tier?

The final regulation contains an Appendix listing out every violation and situation requiring a public notice and its tier. The requirements for the timing of the public notice and the form and manner of its delivery are determined by the tier to which the violation or situation is assigned. For example, a total coliform violation where fecal coliform is present falls under Tier 1, which requires notification delivery within 24 hours by (at a minimum) appropriate broadcast media, posting, or hand delivery. *See Table 1 for the list of violation types and situations identified under each tier.*

What are EPA requirements for the form, manner, and content of the public notices?

The final rule sets minimum methods of delivery under each tier, but also requires that water systems take steps reasonably calculated to reach others not reached by the minimum method. Each notice must contain information addressing ten elements, including use of standard health effects language for maximum contaminant level (MCL) and treatment technique violations and standard language for monitoring violations. Public water systems serving a large proportion of non-English speaking consumers are also required to include information in the notice in languages other than English. *See Figure 1 for an example of a completed notice, including the required ten elements.*

NEW IMPLEMENTATION REQUIREMENTS

Which public water systems are affected by the regulation?

Once the rule goes into effect in each State, it will require all the public water systems to make changes to their current public notification programs to incorporate the revised regulations. The final rule will require States with primary enforcement authority to revise their approved primacy programs to adopt regulations no less stringent than the revised EPA regulations. The final regulation gives States considerable discretion, at their option, to work with EPA to tailor public notification programs to fit unique needs, policies, and programs.

How is EPA helping public water systems with new requirements?

EPA and the Association of State Drinking Water Administrators (ASDWA) will soon issue a *Public Notification Handbook* to assist water systems in implementing the revised regulation. This *Handbook* will provide templates for notices and other aids to help water systems develop notices for violation situations.

TABLE 1
Violations and Situations Requiring Public Notice

Tier 1 Public Notice – Required Within 24 Hours

- Fecal coliform maximum contaminant level (MCL) violation or failure to test for fecal contamination after total coliform test is positive
- Nitrate/nitrite/combined nitrate and nitrite MCL violation or failure to take confirmation sample
- Chlorine dioxide maximum residual distribution level (MRDL) violation in distribution system or failure to take repeat samples in distribution system
- Exceedance of maximum allowable turbidity level resulting in an MCL or treatment technique (TT) violation, when the State or EPA determines a Tier 1 notice is warranted
- Special public notice for non-community water systems with nitrate exceedances between 10 mg/l and 20 mg/l, when allowed to exceed MCL (10 mg/l) by the State
- Waterborne disease outbreak or other waterborne emergency
- Other situations as determined by the primacy agency

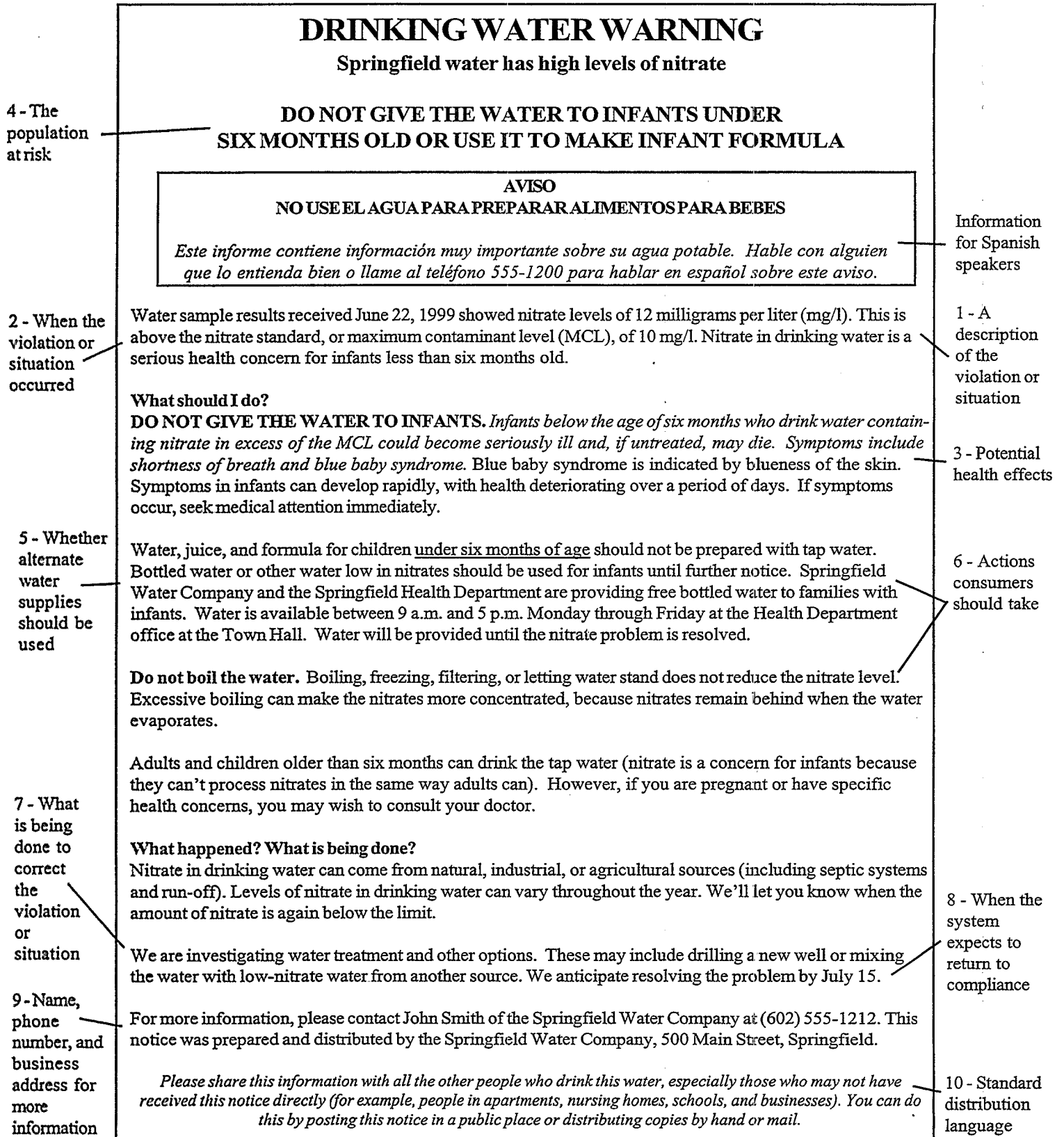
Tier 2 Public Notice – Required Within 30 Days (unless extended to 90 days by State)

- All other MCL, MRDL, and TT violations not identified as a Tier 1 notice
- Monitoring and testing procedure violations, when the primacy agency requires a Tier 2 (rather than Tier 3) notice
- Failure to comply with variance and exemption (V&E) conditions

Tier 3 Public Notice – Required Within 1 Year

- All other monitoring or testing procedure violations not already requiring a Tier 1 or Tier 2 notice
- Operation under a Variance and Exemption
- Special public notices (i.e., exceedance of the fluoride secondary maximum contaminant level (SMCL); announcing the availability of unregulated contaminant monitoring results)

Figure 1: The Required Elements of a Public Notice



4 - The population at risk

2 - When the violation or situation occurred

5 - Whether alternate water supplies should be used

7 - What is being done to correct the violation or situation

9 - Name, phone number, and business address for more information

Information for Spanish speakers

1 - A description of the violation or situation

3 - Potential health effects

6 - Actions consumers should take

8 - When the system expects to return to compliance

10 - Standard distribution language