

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

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:

* * * * *

(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.

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(9) OTHER VIOLATIONS OR SITUATIONS DETERMINED BY THE DEPARTMENT TO REQUIRE A PUBLIC NOTICE UNDER THIS SUBCHAPTER.

* * * * *

(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.

(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]~~CATEGORIES, TIMING AND DELIVERY).

(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]~~ **CATEGORIES, TIMING AND DELIVERY**).

(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]~~ **CATEGORIES, TIMING AND DELIVERY**).

(c) *Public notice recipients.*

* * * * *

(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)**(2)** (relating to emergency response plan).

* * * * *

(d) Additional requirements. Community water systems shall comply with the planning requirements specified under § 109.702(a)~~(6)~~ (7) (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:

* * * * *

(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.]

* * * * *

(5) Provide a public notice THAT THE TIER 1 VIOLATION OR SITUATION HAS BEEN CORRECTED, as soon as possible, but no later than 24 hours after THE CORRECTIVE ACTIONS HAVE BEEN COMPLETED AND 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 **PRIOR TO _____.** **(EDITOR'S NOTE: THE BLANK REFERS TO A DATE 12 MONTHS AFTER THE EFFECTIVE DATE OF ADOPTION OF THIS FINAL RULEMAKING.)** 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, one or more of }** ~~{ as appropriate to the type and size of the water system, }~~ 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 shall 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 shall 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. 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. }

(d) DELIVERY OF A TIER 1 PUBLIC NOTICE BEGINNING ON _____.
(EDITOR'S NOTE: THE BLANK REFERS TO A DATE 12 MONTHS AFTER THE EFFECTIVE DATE OF ADOPTION OF THIS FINAL RULEMAKING.) THE 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 IN ACCORDANCE

WITH § 109.407(c), A WATER SUPPLIER SHALL USE, AS APPROPRIATE TO THE TYPE OF THE WATER SYSTEM, THE FOLLOWING FORMS OF DELIVERY IDENTIFIED UNDER PARAGRAPHS (1) – (3).

(1) COMMUNITY WATER SYSTEMS SHALL PROVIDE PUBLIC NOTICE TO EACH SERVICE CONNECTION USING ONE OR MORE OF THE FOLLOWING FORMS OF DIRECT DELIVERY:

(i) HAND DELIVERY.

(ii) ELECTRONIC MAIL.

(iii) AUTOMATIC TELEPHONE DIALING SYSTEMS OR OTHER BEST AVAILABLE TECHNOLOGY. 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 SHALL 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.

(iv) ANOTHER FORM OF DIRECT DELIVERY APPROVED IN WRITING BY THE DEPARTMENT.

(2) IN ADDITION TO PROVIDING PUBLIC NOTICE TO EACH SERVICE CONNECTION UNDER PARAGRAPH (1), COMMUNITY WATER SYSTEMS THAT ALSO SERVE TRANSIENT AND NONTRANSIENT SERVICE CONNECTIONS SHALL PROVIDE NOTICE USING APPROPRIATE BROADCAST MEDIA, SUCH AS RADIO AND TELEVISION.

(3) NONCOMMUNITY WATER SYSTEMS SHALL PROVIDE PUBLIC NOTICE TO TRANSIENT AND NONTRANSIENT CONSUMERS USING ONE OR MORE OF THE FOLLOWING FORMS OF DELIVERY:

(i) HAND DELIVERY.

(ii) ELECTRONIC MAIL.

(iii) POSTING THE NOTICE IN CONSPICUOUS LOCATIONS THROUGHOUT THE AREA SERVED BY THE WATER SYSTEM.

(iv) ANOTHER FORM OF DELIVERY APPROVED IN WRITING BY THE DEPARTMENT.

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

(a) *General violation categories and other situations requiring a Tier 2 public notice.* A public water supplier shall provide Tier 2 public notice for the following circumstances:

(1) All violations of the primary MCL, MRDL and treatment technique requirements in Subchapter B, G or K (relating to MCLs, MRDLs or treatment technique requirements; system management responsibilities; and lead and copper), except where a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—**[form, manner and frequency] CATEGORIES, TIMING AND DELIVERY** of notice) or when the Department determines that a Tier 1 notice is required. The tier assignment for fluoride is not incorporated by reference. Under § 109.202(d) (relating to MCLs, MRDLs or treatment technique requirements), a public water system shall comply with the primary MCL for fluoride of 2 mg/L. As such, a public water supplier shall provide Tier 2 public notice for violation of the primary MCL for fluoride.

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(4) OTHER VIOLATIONS OR SITUATIONS DETERMINED BY THE DEPARTMENT TO REQUIRE A TIER 2 PUBLIC NOTICE, TAKING INTO ACCOUNT POTENTIAL CHRONIC HEALTH IMPACTS AND PERSISTENCE OF THE VIOLATION.

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

(a) *General violation categories and other situations requiring a Tier 3 public notice.* A public water supplier shall provide Tier 3 public notice for the following circumstances:

(1) Monitoring violations under Subchapter C or K (relating to monitoring requirements; and lead and copper), except when a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—**[form, manner and frequency] CATEGORIES, TIMING AND DELIVERY** of notice) or where the Department determines that a Tier 2 notice is required.

* * * * *

(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:

* * * * *

§ 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] must** include the following elements:

* * * * *

(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.

* * * * *

(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] when** applicable.

(b) **Abbreviated notice. 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[(e) (1) (ii) or (iii) (3)](d)(1)(iii) (relating to tier 1 public notice--categories, timing and delivery of notice), the abbreviated notice must 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) * * *

§ 109.412. Special notice of the availability of unregulated contaminant monitoring results.

* * * * *

(b) ~~Form and manner~~ **DELIVERY** of a special notice. The ~~form and manner~~ **DELIVERY** of the public notice shall follow the requirements for a Tier 3 public notice prescribed in § 109.410 (relating to Tier 3 public notice—~~form, manner and frequency~~ **CATEGORIES, TIMING AND DELIVERY** of notice). A public water system may use an annual report or CCR to notify persons served by the system of the availability of the results of the sampling as long as the requirements under § 109.410(d) are met. The notice shall also identify a person and provide the telephone number to contact for information on the monitoring results.

§ 109.413. Special notice for nitrate exceedances above MCL by noncommunity water systems, where granted permission by the Department.

(a) *Timing for a special notice.* A noncommunity water system granted permission by the Department in writing in accordance with 40 CFR 141.11(d) (relating to maximum contaminant levels for inorganic chemicals) to exceed the nitrate MCL shall provide notice to persons served according to the requirements for a Tier 1 notice under § 109.408(a) and (b) (relating to Tier 1 public notice—~~form, manner and frequency~~ **CATEGORIES, TIMING AND DELIVERY** of notice).

(b) ~~Form and manner~~ **DELIVERY** of a special notice. Noncommunity water systems granted permission by the Department in writing to exceed the nitrate MCL in accordance with 40 CFR 141.11(d) shall provide continuous posting of the fact that nitrate levels exceed 10 mg/L and include the potential health effects of exposure, according to the requirements for a Tier 1 notice delivery under § 109.408 **(c)(2) AND (d)(3)** and the content requirements under § 109.411 (relating to content of a public notice).

§ 109.415. Notice by the Department on behalf of the public water system.

(a) If a public water supplier fails to give notice to the public as required by this subchapter, the Department may perform this notification on behalf of the supplier of water and may assess costs of notification on the responsible water supplier.

~~[(1) Public notice given by the Department on behalf of the public water system. If the Department gives the public notice required by this subchapter on behalf of the public water supplier, the Department will comply with this subchapter.]~~

~~[(2)]~~ **(b)** Public water system responsibilities when public notice is given by the Department. If the Department gives public notice, the public water supplier remains responsible for ensuring that the requirements of this subchapter are met.

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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:

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(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:

* * * * *

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

(A) The occurrence of a waterborne disease outbreak[, a].

(B) A failure or significant interruption in key water treatment processes[, a].

(C) A natural disaster that disrupts the water supply or distribution system[, or a].

(D) A chemical spill [or].

(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 THAT EXCEEDS A PUBLISHED MAXIMUM USE VALUE, SUCH AS NATIONAL SANITATION FOUNDATION'S MAXIMUM USE VALUE, AS APPLICABLE.

(G) A situation that causes a [negative] LOSS OF POSITIVE water pressure in any portion of the distribution system WHERE THERE IS

**EVIDENCE OF CONTAMINATION OR A WATER SUPPLIER
SUSPECTS A HIGH RISK OF CONTAMINATION.**

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

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§ 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] must generally** conform to the guidelines contained in the Department's *Public Water Supply Manual* and **[shall]** contain at least the following information:

* * * * *

(3) PROCEDURES FOR REPAIRING AND REPLACING WATER MAINS THAT CONFORM TO THE DEPARTMENT AND WATER INDUSTRY STANDARDS.

~~{(3)}~~ **(4)** * * *

~~{(4)}~~ **(5)** * * *

~~{(5)}~~ **(6)** * * *

~~{(6)}~~ **(7) [A public] Public notification [program including appropriate advance preparations, such as public] elements in accordance with Subchapter D (relating to public notification) that include:**

(i) Public notice templates[, an].

(ii) EPA contaminant fact sheets, when available.

(iii) An explanation of appropriate methods of delivery [and a designation of public notice recipients for each tier type] **of public notice in accordance with Subchapter D**[].

~~{(7)}~~ **(8)** * * *

~~{(8)}~~ **(9)** * * *

~~{(9)}~~ **(10)** * * *

~~{(10)}~~ (11) * * *

~~{(11)}~~ (12) * * *

~~{(12)}~~ (13) * * *

~~{(13)}~~ (14) Date of last update.

* * * * *

(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]~~ **MUST** be **[bound and placed]**:

(1) **Placed** in **secure** locations which are readily accessible to the water system's personnel**[, and shall be presented]**.

(2) **Presented** upon request to the Department.

* * * * *

§ 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] must 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. 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) **[Procedures for communications and coordination with the local emergency management organization.] 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), a list OF APPROPRIATE contact persons and phone numbers for the following groups of people:

(i) [~~Local~~] emergency management agencies within a water system's jurisdiction.

(ii) KEY PUBLIC OFFICIALS WITHIN A WATER SUPPLIER'S SERVICE AREA.

{(iii)} (iii) 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)} (iv) [~~Sensitive subpopulations~~] FACILITIES WITHIN A WATER SUPPLIER'S SERVICE AREA, including, but not limited to hospitals, schools, day-care facilities, nursing homes, SOCIAL SERVICE AGENCIES, industrial and commercial users.

{(iv)} (v) Media.

{(v)} (vi) Equipment and chemical suppliers.

(3) Means of communication. A list containing the following:

(i) Types of communication equipment.

(ii) Types of communication for public notification.

(4) Summary description of the system. A list containing the following:

(i) Location of pertinent operational information.

(ii) Source information.

(iii) Treatment information.

(iv) Finished water storage.

(5) Assessment of available resources. A list containing the following:

(i) Mutual aid agreements.

(ii) Emergency water supply equipment that includes procedures for providing reserve capacity according to § 109.609 (relating to reserved

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. A list containing the following:

(i) Probable emergency situations including, but not limited to, those specified in § 109.701(a)(3)(iii).

(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 AND AS NECESSARY TO REFLECT CHANGES TO COMMUNICATION PROCEDURES AND CONTACT INFORMATION UNDER SUBSECTION (a)(2). THE COMMUNITY WATER SUPPLIER SHALL RECORD THE DATE OF UPDATE ON THE PLAN. The plan must be:

(1) Placed in secure locations which are readily accessible to the water system's personnel.

(2) Presented upon request to the Department.