

## 333-061-0042

### Public Notice

- (1) The owner or operator of a public water system must provide public notice to persons served by the water system for all violations and situations established by these rules.
  - (a) Public water systems that provide drinking water to purchasing water systems are required to give public notice to the owner or operator of the purchasing water system who is responsible for providing public notice to the persons it serves.
  - (b) 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, in writing, allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance.
  - (c) A copy of any public notice must be sent to the Department as required in OAR 333-061-0040(1)(j).
- (2) Public notice requirements are divided into three tiers to take into account the seriousness of the violation or situation and of any potential adverse health effects that may be involved:
  - (a) Tier 1: A Tier 1 notice is required for violations and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure and include the following:
    - (A) Violation of the MCL for total coliforms when fecal coliforms or *E. Coli* are present in the water distribution system as specified in OAR 333-061-0030(4)(b) or when the water system fails to test for fecal coliforms or *E. coli* when any repeat sample tests positive for coliform as specified in OAR 333-061-0036(6)(n);
    - (B) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, or when the water system 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;
    - (C) Violation of the MRDL for chlorine dioxide as prescribed in OAR 333-061-0031(1) 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 system does not take the required samples in the distribution system;
    - (D) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed filtration treatment as defined by these rules when the Department determines after consultation that a Tier 1 notice is

- required or where consultation does not take place within 24 hours after the system learns of the violation;
- (E) Violation of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), or Interim Enhanced Surface Water Treatment Rule (IESWTR) treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit, where the Department determines after consultation that a Tier 1 notice is required or where consultation does not take place within 24 hours after the system learns of the violation;
  - (F) Occurrence of a waterborne disease outbreak or other waterborne emergency (such as a failure or significant interruption in key water treatment processes, a natural disaster that disrupts the water supply or distribution system, or a chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination);
  - (G) Detection of *E. coli* in source water samples as specified in OAR 333-061-0036(6)(r) and OAR 333-061-0036(6)(w);
  - and(H) 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.
- (b) Tier 2: required for all violations and situations with potential to have serious adverse effects on human health and include:
- (A) All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required or where the Department determines that a Tier 1 notice is required.
  - (B) Violations of the monitoring and testing procedure requirements, where the Department determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation.
  - (C) Failure to comply with the terms and conditions of any variance or permit in place.
  - (D) Failure to respond to sanitary survey reports or comprehensive performance evaluation reports prepared by the Department as required in OAR 333-061-0076 and 333-061-0077.
  - (E) Use of an emergency groundwater source that has been identified as potentially under the direct influence of surface water, but has not been fully evaluated.
- (c) Tier 3: required for other violations or situations not included in Tier 1 and 2 and include:

- (A) Monitoring violations prescribed in these rules except where a Tier 1 notice is required or where the Department determines that a Tier 2 notice is required;
  - (B) Failure to comply with a testing procedure established in these rules except where a Tier 1 notice is required or where the Department determines that a Tier 2 notice is required;
  - (C) Operation under a variance or permit granted by the Department;
  - (D) Availability of unregulated contaminant monitoring results as required under section (6) of this rule;
  - (E) Exceedance of the fluoride secondary MCL as required under section (7) of this rule; and
  - (F) Disinfection profiling and benchmarking monitoring and testing violations.
- (d) The Department may require public notice for violations or other situations not listed in this section, or a higher tier of public notice for specific violations and situations listed in this section.
- (3) All public notices established by these rules shall be distributed in the form, manner and frequency as described in this section:
- (a) Tier 1 notices: public water systems required to distribute Tier 1 notices must:
    - (A) Provide the notice as soon as practical, but no later than 24 hours after learning of the violation or situation;
    - (B) Initiate consultation with the Department as soon as practical, but no later than 24 hours after learning of the violation or situation;
    - (C) Comply with any additional notification requirements established as a result of consultation with the Department;
    - (D) The form and manner used by the public water system are to fit the specific situation, but must be designed to reach residential, transient, and non-transient users of the water system. In order to reach all persons served, one or more of the following forms of delivery must be used:
      - (i) Appropriate broadcast media such as radio and television;
      - (ii) Posting of the notice in conspicuous locations throughout the area served by the water system;
      - (iii) Hand delivery of the notice to persons served by the water system; or
      - (iv) Another delivery method approved in writing by the Department.
  - (b) Tier 2 notices: public water systems required to distribute Tier 2 notices must:

- (A) Provide the public notice as soon as practical, but no later than 30 days after learning of the violation or situation. The Department may, in writing, extend additional time for the initial notice of up to three months in appropriate circumstances;
- (B) If the public notice is posted, leave the notice in place as long as the violation or situation exists, but in no case for less than seven days, even if the violation or situation is resolved;
- (C) Repeat the notice every three months as long as the violation or situation persists unless the Department determines in writing that appropriate circumstances warrant a different repeat notice frequency. In no circumstance may the repeat notice be given less frequently than once per year.
- (D) For the turbidity violations specified in paragraphs (3)(b)(D)(i) and (ii) of this rule, public water systems must consult with the Department as soon as practical, but no later than 24 hours after learning of the violation to determine whether a Tier 1 public notice is required to protect public health. When consultation with the Department does not take place within the 24 hour period, the water system must distribute a Tier 1 notice of the violation within the next 24 hours as prescribed in subsection (3)(a) of this rule:
  - (i) Violation of the interim operating plan for turbidity for a surface water system that does not meet the exception criteria for avoiding filtration under OAR 333-061-0032 nor has installed treatment as defined by these rules; or
  - (ii) Violation of the SWTR, LT1ESWTR, or IESWTR treatment technique requirement as prescribed in OAR 333-061-0032, resulting from a single exceedance of the maximum allowable turbidity limit.
- (E) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:
  - (i) Unless directed otherwise by the Department in writing, community water systems must provide notice by:
    - (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; and
    - (II) Any other method reasonably calculated to reach other persons regularly served by the water system

who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.

- (ii) Unless directed otherwise by the Department in writing, non-community water systems must provide notice by:
  - (I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and
  - (II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and multiple copies in central locations.
- (c) Tier 3 notices: public water systems required to distribute Tier 3 notices must:
  - (A) Provide the public notice not later than one year after learning of the violation or situation or begins operating under a variance or permit. Following the initial notice, the system must repeat the notice annually for as long as the violation, variance, permit or other situation persists. If the public notice is posted, the notice must remain in place for as long as the violation, variance, permit, or other situation persists, but in no case less than seven days even if the violation or situation is resolved.
  - (B) Instead of individual Tier 3 public notices, a community public water system may use its annual Consumer Confidence Report (CCR) for the initial and all repeat notices detailing all violations and situations that occurred during the previous twelve months. This method may be used as long as it is distributed within the one year requirement in paragraph (3)(c)(A) of this rule, follows the public notice content required under section (4) of this rule and is delivered to users as required under paragraph (3)(c)(C) of this rule.
  - (C) The form and manner used by the public water system for initial and repeat notices must be calculated to reach persons served by the system in the required time period. The form and manner may vary based on the specific situation and type of water system, but it must at a minimum meet the following requirements:
    - (i) Unless directed otherwise by the Department in writing, community water systems must provide notice by:

- (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; and
    - (II) Any other method reasonably calculated to reach other persons regularly served by the water system who would not normally be reached by mail or direct delivery. Other methods may include: local newspapers, delivery of multiple copies for distribution, posting, e-mail and community organizations.
  - (ii) Unless directed otherwise by the Department in writing, non-community water systems must provide notice by:
    - (I) Posting the notice in conspicuous locations frequented by users throughout the distribution system, or by mail or direct delivery to each customer or connection; and
    - (II) Any other method reasonably calculated to reach other persons not normally reached by posting, mail or direct delivery. Other methods may include: local newspaper, newsletter, e-mail and delivery of multiple copies in central locations.
- (4) Content of Public Notice:
  - (a) When a public water system has a violation or situation prescribed in these rules requiring a public notice, each public notice must include the following elements:
    - (A) A description of the violation or situation, including the contaminant(s) of concern, and the contaminant level;
    - (B) When the violation or situation occurred;
    - (C) Any potential adverse health effects including the standard language required under paragraphs (4)(d)(A) and (B) of this rule;
    - (D) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
    - (E) Whether alternative water supplies should be used;
    - (F) What actions consumers should take, including when they should seek medical help, if known;
    - (G) What the system is doing to correct the violation or situation;
    - (H) When the water system expects to return to compliance or resolve the situation;
    - (I) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

- (J) A statement to encourage the notice recipient to distribute the public notice to other persons served, using the standard language under paragraph (4)(d)(C) of this rule.
- (b) Content of public notices for public water systems operating under a variance or permit:
  - (A) If a public water system has been granted a variance or permit, the public notice must contain:
    - (i) An explanation of the reasons for the variance or permit;
    - (ii) The date on which the variance or permit was issued;
    - (iii) A brief status report on the steps the system is taking to install treatment, find alternative sources of water or otherwise comply with the terms and schedules of the variance or permit; and
    - (iv) A notice of any opportunity for public input in the review of the variance or permit.
  - (B) If a public water system violates the conditions of a variance or permit, the public notice must contain the ten elements listed in subsection (4)(a) of this rule.
- (c) Public notice presentation:
  - (A) Each public notice required by these rules must:
    - (i) Be displayed in a conspicuous way when printed or posted;
    - (ii) Not contain overly technical language or very small print;
    - (iii) Not be formatted in a way that defeats the purpose of the notice;
    - (iv) Not contain language which nullifies the purpose of the notice.
  - (B) Each public notice required by these rules must comply with multilingual requirements as follows:
    - (i) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public notice must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone 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.
    - (ii) In cases where the Department has not determined what constitutes a large proportion of non-English speaking consumers, the public water system must include in the public notice the same information required in paragraph (4)(c)(B)(i) of this rule where appropriate to reach a large

proportion of non-English speaking persons served by the water system.

- (d) Standard language: public water systems are required to include the following standard language in their public notice:
  - (A) Public water systems must include in each public notice the specific health effects language as prescribed in OAR 333-061-0097 for each MCL, MRDL, and treatment technique violation and for each violation of a condition of a variance or permit.
  - (B) Public water systems must include the following language in their notice, including the language necessary to fill in the blanks, for all monitoring and testing procedure 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 {contaminants(s)}, and therefore cannot be sure of the quality of your drinking water during that time.**
  - (C) Public water systems are required where applicable to include the following standard language to encourage the distribution of the public notice to all persons served:  
**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.**
- (5) Notice to new billing units or new customers:
  - (a) Community water systems must give a copy of the most recent public notice for any continuing violation, the existence of a variance or permit, or other ongoing situations requiring a public notice to all new billing units or new customers prior to or at the time service begins.
  - (b) Non-community water systems must continuously post the public notice in conspicuous locations in order to inform new consumers of any continuing violation, variance or permit, or other situations requiring a public notice for as long as the violation, variance, permit, or other situation persists.
- (6) Special notice of availability of unregulated contaminant monitoring results:
  - (a) The owner or operator of a community water system or non-transient, non-community water systems required by EPA to monitor for unregulated contaminants must notify persons served by the system of the availability of the results of such sampling no later than 12 months after the monitoring results are known.

- (b) The form and manner of the public notice must follow the requirements for a tier 3 public notice as prescribed in paragraphs (3)(c)(B) and (C) of this rule. The notice must also identify a person and provide the telephone number to contact for information on the monitoring results.
- (7) Special notice for exceedance of the SMCL for fluoride:
- (a) Community water systems that exceed the fluoride secondary MCL of 2 mg/l, determined by the last single sample taken in accordance with OAR 333-061-0036(2), but do not exceed the MCL of 4 mg/l for fluoride must provide the public notice in subsection (7)(d) of this rule to persons served by the water system. Public notice must be provided as soon as practical but no later than 12 months from the day the water system learns of the exceedance. The public water system must repeat the notice at least annually for as long as the exceedance persists. The Department may require an initial notice sooner than 12 months and repeat notices more frequently than annually on a case-by-case basis;
  - (b) A copy of the notice must also be sent to all new billing units and new customers at the time service begins and to the Department. If the public notice is posted, the notice must remain in place for as long as the secondary MCL is exceeded, but in no case less than 7 days, even if the exceedance is eliminated;
  - (c) The form and manner of the public notice, including repeat notices must follow the requirements for tier 3 public notice;
  - (d) The notice must contain the following language, including the language necessary to fill in the blanks:

**This is an alert about your drinking water and a cosmetic dental problem that might affect children under nine years of age. At low levels, fluoride can help prevent cavities, but children drinking water containing more than 2 mg/l of fluoride may develop cosmetic discoloration of their permanent teeth (dental fluorosis). The drinking water provided by your community water system {name} has a fluoride concentration of {insert value} mg/l.**

**Dental fluorosis, in its moderate or severe forms, may result in a brown staining and/or pitting of the permanent teeth. This problem occurs only in developing teeth, before they erupt from the gums. Children under nine should be provided with alternative sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.**

**Drinking water containing more than 4 mg/l of fluoride (the U.S. EPA's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of this cosmetic dental problem.**

**For more information, please call {name of water system contact} of {name of community water system} at {phone number}. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.**

- (8) Special notice to the public for significant deficiencies or source water fecal contamination.
- (a) A community water system that uses groundwater and that receives notification from the Department of a significant deficiency or of an *E. coli*-positive groundwater source sample, that is not invalidated in accordance with OAR 333-061-0036(6)(x), must inform the public served by the water system of the *E. coli*-positive source sample or the significant deficiency that has not been corrected as prescribed by OAR 333-061-0043(5). The water system must continue to inform the public annually until the significant deficiency is corrected, or the fecal contamination in the groundwater source is determined by the Department to be corrected in accordance with OAR 333-061-0032(6)(e).
  - (b) A non-community groundwater system that receives notice from the Department of a significant deficiency must inform the public served by the water system in a manner approved by the Department of the significant deficiency if it has not been corrected within 12 months of the notification by the Department. The water system must continue to inform the public annually until the significant deficiency is corrected. The information must include:
    - (A) The nature of the significant deficiency and the date the significant deficiency was identified by the Department;
    - (B) The Department-approved plan and schedule for correction of the significant deficiency, including any interim measures, progress to date, and any interim measures completed; and
    - (C) For water systems with a large proportion of non-English speaking consumers as determined by the Department, information must be distributed in the appropriate language(s) regarding the importance of the notice or a telephone number or address where consumers may contact the system to obtain a

translated copy of the notice or assistance in the appropriate language.

- (c) If directed by the Department, a non-community water system with significant deficiencies that have been corrected must inform its customers of the significant deficiencies, how the deficiencies were corrected, and the dates of correction under subsection (8)(b) of this rule.
- (9) Special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification or mean *Cryptosporidium* level.
- (a) Special notice for repeated failure to monitor. The owner or operator of a community or non-community water system that is required to monitor source water in accordance with OAR 333-061-0036(5)(e) must notify persons served by the water system that monitoring has not been completed as required no later than 30 days after the system has failed to collect any 3 months of monitoring as specified in Table 39. The notice must be repeated as specified in subsection (3)(b) of this rule .
  - (b) Special notice for failure to determine bin classification or mean *Cryptosporidium* level. The owner or operator of a community or non-community water system that is required to determine a bin classification in accordance with OAR 333-061-0032(4)(f), or to determine a mean *Cryptosporidium* level as prescribed by OAR 333-061-0032(2)(d), must notify persons served by the water system that the determination has not been made as required no later than 30 days after the system has failed to report the determination in accordance with OAR 333-061-0032(2)(d)(A) and (D) or OAR 333-061-0032(4)(f)(G) and (H).
    - (A) The notice must be repeated as specified in subsection (3)(b) of this rule.
    - (B) The notice is not required if the system is complying with a Department-approved schedule to address the violation.
  - (c) The form and manner of the special notice must follow the requirements for a Tier 2 public notice as prescribed in subsection (3)(b) of this rule. The special notice must be presented as required by subsection (4)(c) of this rule.
  - (d) The special notice must contain the following language, including system specific language for the text within the braces.
    - (A) The special notice for repeated failure to conduct monitoring must contain:

**{Water system name} is required to monitor the source of your drinking water for *Cryptosporidium*. Results of the monitoring are to be used to determine whether water treatment at the {treatment plant name} is sufficient to**

adequately remove *Cryptosporidium* from your drinking water. We are required to complete this monitoring and make this determination by {required bin determination date}. We ``did not monitor or test'' or ``did not complete all monitoring or testing'' on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made to ensure adequate *Cryptosporidium* removal. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required, {date}. For more information, please call {name of water system contact} of {water system name} at {phone number}.

- (B) The special notice for failure to determine bin classification or mean *Cryptosporidium* level must contain the following language:

**{Water system name} is required to monitor the source of your drinking water for *Cryptosporidium* in order to determine by {date} whether water treatment at the {treatment plant name} is sufficient to adequately remove *Cryptosporidium* from your drinking water. We have not made this determination by the required date. Our failure to do this may jeopardize our ability to have the required treatment modifications, if any, completed by the required deadline of {date}. For more information, please call {name of water system contact} of {water system name} at {phone number}.**

- (C) Each special notice must also include a description of what the system is doing to correct the violation and when the system expects to return to compliance or resolve the situation.(10) Public notification by the Department. The Department may give notice to the public required by this section on behalf of the owner or operator of the public water system. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.