Public Notification and Consumer Confidence Reports

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Objectives

- Describe the Agreement in Principle recommendations regarding Public Notice (PN) and Consumer Confidence Report (CCR) requirements
- Describe EPA's approach to modifying regulatory language for
  - PN Requirements
  - Health effects language
  - CCR Requirements
- Obtain stakeholder feedback

PN and CCR Recommendations from the AIP

"The TCRDSAC recommends that EPA propose and request public comment on a revision to public notification and Consumer Confidence Report language consistent with existing provisions … that reflect the use of TC as an indicator and the provisions for a treatment technique"

Public Notification Requirements

- 40 CFR 141 Subpart Q
- PN is divided into 3 “Tiers”
- The RTCR will have PN consistent with the existing three tiers, as follows:
  - Tier 1 – for E.coli MCL violation
  - Tier 2 – for Treatment Technique TT violation (failure to do assessment or corrective action)
  - Tier 3 – for Routine Monitoring Violation or Reporting Violation
- See Appendix for rule language

Example Change- Tier 1 PN

- Relevant provisions in the AIP
  - Fecal coliforms will no longer be used
  - Failing to test for *E.coli* will also be an MCL violation
- Existing Tier 1 PN Violation Categories:
  - A violation of the MCL for total coliforms when fecal coliform or *E.coli* are present
    - Approach: Simplify language to only refer to *E.coli* MCL
  - When the water system fails to test for fecal coliforms or E.coli when any repeat sample test positive for coliform
    - Approach: Delete language for failing to test since it will also be an *E. coli* MCL violation Simplify language to only refer to *E.coli* MCL

Example Change – Tier 2 PN

- Relevant provisions in the AIP
  - Removal of the TC MCL, addition of a TT violation associated with assessment/corrective action
- Existing Tier 2 PN Violation Categories
  - Violations of MCL or Treatment Technique requirements, (except those that require tier 1)
  - Approach: No change necessary because TT is already included
- Repeating the notice - Current Language
  - Must repeat every 3 months as long as situation persists (unless determined otherwise by primacy agency)
  - For TCR MCL violations, less frequent notices are not appropriate
  - Approach: Include TCR TT violations in this section

PN Discussion Items

- Tier 1
  - Does the language concerning failing to test need to be modified?
- Tier 2
  - Is the current language sufficient?
  - Do the repeat notice provisions need to be modified?

Health Effects Language

- Contained in both 40 CFR 141 Subparts Q (PN) and O (CCR)
  - Health effects language is found in the Appendix to each subpart (see appendix)
- This language is required for all PN and CCR containing TCR violation information
- Health effects language is the same for PN and CCR

Example Change – Health Effects Language for Fecal Coliform and *E. coli*

- Relevant provisions in the AIP
  - Fecal coliforms are no longer used
- Existing Language: Fecal Coliform/*E.coli* (Tier 1)
  - "Fecal coliforms and *E.coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems."
- Proposed approach
  - Remove reference to fecal coliforms

Example Change - Health Effects Language for Total Coliform

- Relevant provisions in AIP
  - Removal of the TC MCL, addition of a TT violation associated with assessment/corrective action
- Existing Language: Total Coliform (Tier 2)
  - "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems."
- Proposed approach
  - Remove reference to "more samples than allowed"
  - Explain TT requirements and potential consequences of TT violation

Health Effects Language Discussion Items

- Tier 1
  - Is simply removing the reference to fecal coliform sufficient?
- Tier 2
  - What language should be used to clearly and concisely explain the consequences of a TT violation under the RTCR?

Consumer Confidence Report Requirements

- 40 CFR 141 Subpart O
- Annual reports sent to community water system customers
- Contain information about quality of water and characterization of risk
- Little language in the AIP concerning CCR

CCR Requirements Changes

- Relevant provisions in AIP
  - None
- Current requirement for total coliforms: reporting the number of positive samples
  - The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or
  - The highest monthly percentage of positive samples for systems collecting at least 40 samples per month
- For fecal coliform: The total number of positive samples

CCR Discussion Items

- For total coliform, should systems continue to report the number of samples?
- 141.153 (d)(4)(iii) If there is no MCL … indicate that there is a treatment technique … and include the definitions for treatment technique …
- Approach to changes may consider:
  - The number of assessments
  - The sanitary defects found (similar to GWR significant deficiencies)
  - The corrective actions taken
  - See the appendix for GWR language

Public Notification Handbook

- AIP recommends separate monitoring versus reporting violations
- Templates in the Public Notification Handbook contain information on:
  - E. coli, PN, and monitoring/reporting violations
- Proposed approach
  - No change to E.coli language
  - Changes required for Tier 2 PN for TT violation
  - Separate language for monitoring and reporting violations

Summary - Items for Discussion

- PN
  - Tier 1, Tier 2 language
  - Language concerning failing to test
- Health Effects Language
  - How to best explain the health consequences of a treatment technique violation
- CCR
  - Reporting of the number of positive samples

Appendix

Appendix: Current Language – Tier 1

Existing Tier 1 PN Violation Categories, section 141.202(a), Table 1:

"Violation of the MCL for total coliforms when fecal coliform or E.coli are present in the water distribution system (as specified in 141.63(b)), or when the water system fails to test for fecal coliforms or E.coli when any repeat sample test positive for coliform (as specified in 141.21(e))"

Referenced Sections:

- 141.63(b)
  - (b) Any fecal coliform-positive repeat sample or *E. coli* -positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or *E. coli* -positive routine sample constitutes a violation of the MCL for total coliforms. For purposes of the public notification requirements in subpart Q, this is a violation that may pose an acute risk to health.
- 141.21(e)
  - (e) *Fecal coliforms/Escherichia coli (E. coli) testing.*
  - (1) If any routine or repeat sample is total coliform-positive, the system must analyze that total coliform-positive culture medium to determine if fecal coliforms are present, except that the system may test for *E. coli* in lieu of fecal coliforms. If fecal coliforms or *E. coli* are present, the system must notify the State by the end of the day when the system is notified of the test result, unless the system is notified of the result after the State office is closed, in which case the system must notify the State before the end of the next business day.
  - (2) The State has the discretion to allow a public water system, on a case-by-case basis, to forgo fecal coliform or *E. coli* testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is fecal coliform-positive or *E. coli* -positive. Accordingly, the system must notify the State as specified in paragraph (e)(1) of this section and the provisions of §141.63(b) apply.

Appendix: Current Language – Tier 2

- Existing Tier 2 PN Violation Categories, 141.203(a), Table 1:
  - "All violations of the MCL, MRDL, and treatment technique requirements, except where a Tier 1 notice is required under 141.202(a)"
  - Section 141.202(a) requires Tier 1 notice for TC and E. Coli (see previous slide)
- Existing Language from 141.203(b)(2) concerning repeat notices:
  - "The public water system must repeat the notice every three months as long as the violation or situation persists, unless the primacy agency determines that appropriate circumstances warrant a different repeat notice frequency . . . It is not appropriate for the primacy agency to allow less frequent repeat notice for an MCL violation under the Total Coliform Rule"

Appendix: Current Health Effects Language

- Existing Health Effects Language for Fecal Coliform and *E.coli* from Appendix A to subpart Q and Appendix A to subpart O:
  - "Fecal coliforms and E.coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems."
- Existing Health Effects Language for Total Coliform from Appendix B to Subpart Q and Appendix A to Subpart O:
  - "Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems."

Appendix: Current CCR Language

- Existing Language for reporting number of positive samples in CCR from Section 141.153(d)(4)vii-viii:

  "(vii) For total coliform:

  (A) The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or

  (b)The highest monthly percentage of positive samples for systems collecting at least 40 samples per month

  (viii) For fecal coliform: The total number of positive samples"

Appendix: Current CCR Language (2)

Reporting when there is no MCL - Section 141.153 (d)(4)(iii)

"If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph(c)(3) of this section."

Appendix: Current CCR Language (3)

Reporting significant deficiencies that have not been corrected or fecal (+) source water samples under the GWR

141.153(h)(6) *Systems required to comply with subpart S.* (i) Any ground water system that receives notice from the State of a significant deficiency or notice from a laboratory of a fecal indicator-positive ground water source sample that is not invalidated by the State under § 141.402(d) must inform its customers of any significant deficiency that is uncorrected at the time of the next report or of any fecal indicator-positive ground water source sample in the next report.

Appendix: Current CCR Language (4)

Reporting significant deficiencies that have been corrected

141.153(h)(6)(D)(ii) If directed by the State, a system with significant deficiencies that have been corrected before the next report is issued must inform its customers of the significant deficiency, how the deficiency was corrected, and the date of correction under paragraph (h)(6)(i) of this section.