



OFFICE OF GROUND WATER AND DRINKING WATER

WASHINGTON, D.C. 20460

WSG # 219

Date Signed: April 2024

MEMORANDUM

SUBJECT: Public Notification for Action Level Exceedances under the Safe Drinking Water Act

FROM: Marietta Echeverria, Director
Drinking Water Capacity & Compliance Assistance Division

TO: Water Division Directors
Regions I-X

This memorandum encourages Public Water System Supervision primacy agencies to consider their existing authorities to work with water systems to start implementing public notification within 24 hours of lead action level exceedances in advance of the October 16, 2024, Lead and Copper Rule Revisions (LCRR) compliance date.

The Public Notification (PN) rule implements Section 1414(c) of the Safe Drinking Water Act (SDWA), which requires EPA to establish regulations to require public water systems to provide public notification (PN) in certain specified situations. The regulations are intended to ensure consumers are informed when the quality of their drinking water poses a potential public health risk. In 2016, section 2106 of the Water Infrastructure Improvement for the Nation (WIIN) Act, amended section 1414(c) of the Safe Drinking Water Act (SDWA) to require the PN rule to mandate notice no later than 24 hours for each exceedance of the action level for lead prescribed under 141.80(c) of 40 CFR Part 141, “or a prescribed level of lead that the Administrator establishes for public education or notification in a successor regulation promulgated pursuant to section 1412” if the exceedance “has the potential to have serious adverse effects on human health as a result of short term exposure.” (42 U.S.C. 300g-3(c)((1)(D) and (c)(2)(C)).

As part of the rulemaking to revise the Lead and Copper Rule in 2021, EPA implemented this provision of the WIIN Act. In the preamble to the final LCRR, EPA explained the basis of its “conclusion that such exceedances have the potential to have serious adverse health effects on human health as a result of short-term exposure.” (86 FR 4240). Accordingly, EPA revised the PN Rule in Subpart Q to require public water systems to notify the public no later than 24 hours after the system learns of a lead action level exceedance (ALE). The PN Rule refers to this type of notification as “Tier 1”. The compliance date for this requirement is October 16, 2024.

In a July 20, 2023, memo to the Agency, the Office of Inspector General recommended that the Agency determine what immediate actions it can take “to promptly notify the public of lead-action-level exceedances to reduce risks to human health pending the compliance date of October 2024 for the EPA’s updated drinking water regulations.” In response to this recommendation, EPA is encouraging primacy agencies to consider using their existing authorities and work with their systems to provide Tier 1 PN as soon as practicable but no later than 24 hours after the system learns of an ALE in advance of the October 16, 2024, regulatory compliance date. Please encourage your states to participate in this voluntary and important action to protect public health. Please also begin working with your systems where your region has SDWA direct implementation authority to make progress towards implementing this action ahead of the compliance date.

Nothing in the Safe Drinking Water Act precludes a state, other primacy agency or local government from adopting or enforcing a requirement to provide Tier 1 PN sooner than the October 16, 2024, compliance date for the federal PN rule. The Federal PN rule requires water systems to issue Tier 1 PN if the primacy agency determines there is a situation with significant potential to have serious adverse effects on human health as a result of short-term exposure, either in its regulations or on a case-by-case basis ([Table 1 to 40 CFR 141.202\(a\)\(9\)](#)). This requirement can be used as a basis for States or other primacy agencies to require water systems to provide PN within 24 hours of learning of a lead ALE either by regulation or case-by-case. Given the potential for serious and irreversible adverse health effects because of exposure to lead, EPA urges primacy agencies to voluntarily implement the 24-hour Tier 1 PN requirements for any lead ALE as soon as practicable and prior to the LCRR deadline.

Delivery methods for Tier 1 PN include broadcast media such as radio and television, posting the notice in conspicuous locations throughout the area served by the water system, hand delivery of the notice to persons served by the water system, or another delivery method approved by the primacy agency.

To support your efforts, EPA is releasing a lead ALE PN template, factsheet and FAQs available on our website: <https://www.epa.gov/dwreginfo/lead-and-copper-rule-implementation-tools>. The Tier 1 ALE PN template will assist water systems in promptly notifying their consumers of an action level exceedance. This template is available now for water systems to use and will be available for water systems to use as they prepare for compliance with the LCRR by October 16, 2024.

Please share this memorandum with your drinking water staff. Questions may be directed to Ed Moriarty, Moriarty.EdwardJ@epa.gov, or 202-564-3864.