

567—42.1(455B) Public notification. Any public water supply system which incurs a violation of any type must conduct an initial notification of the public for that violation, as required in this rule. Public water supply systems with an acute violation must follow the public notification provisions of both 42.1(1) “a” and “b.”

42.1(1) Maximum contaminant level (MCL), maximum residual disinfectant level (MRDL), treatment technique, compliance schedule, and health advisory violations. The owner or operator of a public water supply system which fails to comply with an applicable MCL established by 567—41.2(455B) through 567—41.8(455B), maximum residual disinfectant level or disinfection byproduct precursor treatment technique established by 567—43.6(455B), treatment technique established by 567—subrule 43.3(10), fails to comply with the requirements of any compliance schedule prescribed in an operation permit, administrative order, or court order pursuant to 567—subrule 43.2(5), or fails to comply with a health advisory as determined by the department, shall notify persons served by the system as follows:

a. Distribution of public notice.

(1) Daily newspaper and mail delivery. Notice shall be given by publication in a daily newspaper of general circulation in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure, and by mail delivery (by direct mail, with the water bill, or by hand delivery) not later than 45 days after the violation or failure. The department may waive mail delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The department must issue the waiver in writing and within the 45-day period.

(2) Weekly newspaper and mail delivery. If the area served by a public water supply system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a weekly newspaper of general circulation serving the area and by mail delivery, not later than 45 days after the violation or failure. The department may waive mail delivery if it determines that the owner or operator of the public water system in violation has corrected the violation or failure within the 45-day period. The department must issue the waiver in writing and within the 45-day period.

(3) Separable distribution systems. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, the department may allow the system to give public notice only to the area served by that portion of the system which is out of compliance.

b. Additional acute MCL violation notification requirements (electronic media). For violations of the MCLs of contaminants or MRDLs of disinfectants that may pose an acute risk to human health, the owner or operator of a public water supply system shall, as soon as possible but in no case later than 72 hours after the violation, furnish a copy of the notice to the radio and television stations serving the area served by the public water system in addition to meeting the requirements of 42.1(1) “a.” The following violations are acute violations:

(1) Any violations specified by the department as posing an acute risk to human health.

(2) Violation of the MCL for nitrate, nitrite, or combined nitrate and nitrite as established in 567—paragraph 41.3(1) “b” and determined according to 567—paragraph 41.3(1) “c.”

(3) Violation of the MCL for total coliforms, when fecal coliforms or *E. coli* are present in the water distribution system, as specified in 567—paragraph 41.2(1) “b”(2).

(4) Occurrence of a waterborne disease outbreak.

(5) Violation of the MRDL for chlorine dioxide, as specified in 567—paragraph 43.6(2) “b” and determined according to 567—paragraph 43.6(2) “e.”

For contaminants which pose an acute or immediate threat to public health, the department may require immediate public notification for a boil water order or where to obtain bottled water, via electronic media or door-to-door delivery of the notices.

c. Repeat MCL violation public notice requirements. Following the initial notice given under 42.1(1) “a,” the owner or operator of the public water supply system must give notice at least once every three months by mail delivery (by direct mail, with the water bill, or by hand delivery), for as long as the violation or failure exists.

d. Additional public notice distribution methods. The owner or operator of a community water system in an area that is not served by a daily or weekly newspaper of general circulation must, in lieu of the requirements of 42.1(1)“a,” “b,” and “c,” give notice within 14 days (72 hours for an acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Hand delivery must be repeated every three months or posting must continue for as long as the violation or failure exists.

e. Noncommunity water system public notice distribution requirements. The owner or operator of a noncommunity water system may, in lieu of the requirements of 42.1(1)“a,” “b,” and “c,” give notice within 14 days (72 hours for an acute violation) after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Hand delivery must be repeated every three months or posting must continue for as long as the violation or failure exists.

f. Notice to new billing units. The owner or operator of a community water system must give a copy of the most recent public notice for any outstanding violation of any maximum contaminant level, health advisory, treatment technique, or compliance schedule to all billing units or new service connections prior to or at the time service begins.

42.1(2) Other violations.

a. Applicability. This subrule applies to all public water supply systems which incur a violation due to:

- (1) Failure to perform monitoring required in 567—Chapter 41, this chapter, and 567—Chapter 43;
- (2) Failure to comply with a testing procedure established in 567—Chapter 41;
- (3) Failure to comply with an interim contaminant level;
- (4) Detection of an unregulated contaminant that exceeds the federal health advisory and the department advises that public notification is necessary;
- (5) Failure to report the required data to the department;
- (6) Failure to meet the requirements of this chapter for public notification, public education, or the development and distribution of the consumer confidence report.

b. Initial notification. The public water supply system must notify, by newspaper and by mail delivery (by direct mail, with the water bill, or by hand delivery), persons served by the system within three months of the violation by the methods described in 42.1(1)“a” or by applicable methods described in 42.1(1)“d” or “e.”

c. Repeat notification. Following the initial notice given under 42.1(2)“b,” the owner or operator of the public water supply system must give notice at least once every three months by mail delivery (by direct mail, with the water bill, or by hand delivery), for as long as the violation or failure exists.

42.1(3) Notice of available information for synthetic organic chemicals. The owner or operator of a public water supply system shall notify persons served by the system of the availability of the results of sampling conducted for synthetic organic chemicals, under 567—paragraphs 41.11(1)“b” and “c,” by including a notice in the first set of water bills issued by the system after the receipt of the results or by written notice within three months. The public water supply may use the annual consumer confidence report to comply with this requirement. For surface water supply systems, public notification is required only after the first quarter’s monitoring and must include a statement that additional monitoring will be conducted for three or more quarters with the results available upon request. The owner or operator shall also provide to all new billing units or new hookups, prior to or at the time service begins, a copy of the most recent public notice for any outstanding violation of any maximum contaminant level established by 567—41.2(455B) through 567—41.8(455B), results of sampling conducted under 567—paragraphs 41.11(1)“b” and “c,” any notice of a treatment technique requirement established by 567—subrule 43.2(5) and notice of any failure to comply with the requirements of any schedule prescribed pursuant to 567—subrule 43.2(5). The notice shall provide the name and telephone number of a person to contact for information.

42.1(4) General content of public notice. Each notice required by this rule must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population at risk, the steps that the public water system is taking to correct the violation, the necessity for seeking alternative water supplies, if any, and any preventive measures the consumer should take

until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, language intended to diminish the importance of the notice, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water supply system as a source of additional information concerning the notice. Where appropriate, the notice shall be multilingual.

42.1(5) *Mandatory health effects language.* When providing the information on potential adverse health effects required by 42.1(4) in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of interim contaminant levels or compliance schedules, or notices of failure to comply with an interim contaminant level or compliance schedule, the owner or operator of the public water system shall include the language specified in Appendix A for each contaminant. (If language for a particular contaminant is not specified in Appendix A at the time notice is required and is not provided by the department, this subrule does not apply.)

42.1(6) *Operation permit compliance schedule public notice requirements.* When the director determines that a public water supply system cannot promptly comply with one or more maximum contaminant levels of 567—41.2(455B) through 41.8(455B), and that there is no immediate, unreasonable risk to the health of persons served by the system, a draft operation permit or modified permit will be formulated, which may include interim contaminant levels or a compliance schedule. Prior to issuance of a final permit, notice and opportunity for public participation must be given in accordance with this subrule. The notice shall be circulated in a manner designed to inform interested and potentially interested persons of any proposed interim contaminant level or compliance schedule.

a. Preparation of notice. The public notice shall be prepared by the department and circulated by the applicant within its geographical area as described in 42.1(1) “a.” The public notice shall be mailed by the department to any person upon request.

b. Public comment period. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the operation permit. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director’s final determination with respect to the operation permit. The period for comment may be extended at the discretion of the department.

c. Content of notice. The contents of the public notice of a proposed operation permit shall include at least the following:

- (1) The name, address, and telephone number of the department.
- (2) The name and address of the applicant.
- (3) A statement of the department’s tentative determination to issue the operation permit.
- (4) A brief description of each applicant’s water supply operations which necessitate the proposed permit conditions.
- (5) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by 42.1(6) “b.”
- (6) The right to request a public hearing pursuant to this paragraph and any other means by which interested persons may influence or comment upon those determinations.
- (7) The address and telephone number of places at which interested persons may obtain further information, request a copy of the draft permit prepared pursuant to this paragraph, and inspect and copy the application forms and related documents.

d. Public hearings on proposed operation permits. The applicant or any interested agency, person or group of persons may request or petition for a public hearing with respect to the proposed action. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 42.1(6) “b” and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should

be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the system, or other appropriate area at the discretion of the director, and may, as appropriate, consider related groups of permit applications.

e. Public notice of public hearings.

(1) Public notice of any hearing held pursuant to this paragraph shall be circulated at least as widely as the notice under 42.1(6)“a” at least 30 days in advance of the hearing.

(2) The contents of the public notice of any hearing held pursuant to this paragraph shall include at least the following:

1. The name, address, and telephone number of the department;
2. The name and address of each applicant whose application will be considered at the hearing;
3. A brief reference to the public notice previously issued, including identification number and date of issuance;
4. Information regarding the time and location for the hearing;
5. The purpose of the hearing;
6. A concise statement of the issues raised by the person requesting the hearing;
7. The address and telephone number of the premises where interested persons may obtain further information, request a copy of the draft operation permit or modification prepared pursuant to this paragraph, and inspect and copy the application forms and related documents; and
8. A brief description of the nature of the hearing, including the rules and procedures to be followed.

f. Decision by the director. Within 30 days after the termination of the public hearing held pursuant to this paragraph or if no public hearing is held within 30 days after the termination of the period for requesting a hearing, the director shall issue or deny the operation permit.