



DRINKING WATER AND GROUNDWATER PROGRAM GUIDANCE

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Guidance Concerning Public Notices and Response Actions for Contaminants Other Than Primary MCLs

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This document is intended solely as guidance and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.

Public Water Supply Operations Handbook

15 PUBLIC NOTICES AND RESPONSE ACTIONS FOR CONTAMINANTS OTHER THAN PRIMARY MCLS

15.1 General (6/16/2022)

This section provides guidance on response actions for public water supply systems when other violations and situations determined by the department under NR 809.950(3)(c)5., Wis. Adm. Code, require a public notice not listed in Appendix A. This section describes actions for public notification, monitoring of drinking water, and treatment considerations.

Public water system consumers are to be notified when contaminants beyond primary MCLs, herein referred to as non-primary contaminants, exceed a health-based risk in drinking water. Examples of non-primary contaminant situations include:

- Situations where a secondary MCL is of concern or above a Health Advisory Level (HAL)
- HALs and Enforcement Standards (ES) exceedances.
- Situations where a contaminant is not regulated for that system type, but the contaminant level is very high. For example, TCE at a TN.
- Situations where a chronic contaminant level is very high, DHS advises an acute PN be issued. For example, Arsenic above 100ppb.
- Contaminants that do not have a HAL, MCL, or ES
- Other situations which pose a health concern not covered under normal primary MCL conditions

Under ch. NR 809.950(3)(c)5, Wis. Adm. Code, the department may require public water suppliers to notify their consumers of situations that fall outside of the standard primary MCL notification requirements.

NR 809.950(3)(c) Special public notices, including all of the following, require a public notice:

5. Other violations and situations determined by the department to require a public notice under this subchapter, not listed in Appendix A.”

The department may require a public notice in situations such as the detection of a non-primary contaminant that poses a health risk or a disruption in the water system. In some situations where a non-primary contaminant is detected in drinking water, a public water community system’s consumer confidence report may meet the public notification requirements.

Disclaimer: This handbook establishes Safe Drinking Water Act program implementation protocols, policies, and procedures for DNR staff. This handbook contains some references to and information about state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Users of the handbook must consult the actual language of the statutes and rules in order to answer specific questions regarding water system compliance with Safe Drinking Water Act

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Note: This chapter does not deal with emergency response. For guidance and public notices in emergency situations, refer to Chapter 13: Security & Emergency Response and to Chapter 14: Environmental Emergencies. This chapter is also not intended to be all-inclusive for every specific situation. Some appendices to this chapter have been created for specific situations and new appendices will be created as new ones arise.

15.2 Maximum Contaminant Levels, Enforcement Standards and Health Advisory Levels (6/16/2022)

The DG Bureau maintains a list of contaminant substances [Drinking Water and Groundwater Health Advisory Level Table at <https://dnr.wisconsin.gov/topic/DrinkingWater/HealthAdvisoryLevels.html>] for which a ch. NR 809 Maximum Contaminant Level (MCL), ch. NR 140 Enforcement Standard (ES) or Health Advisory Level (HAL) has been established. Drinking water standards (MCLs) are established in ch. NR 809. Groundwater enforcement standards (ESs) are established in ch. NR 140. Health advisory levels are established by the United States Environmental Protection Agency (USEPA) or by the Wisconsin Department of Health Services (DHS).

For non-primary contaminants where no HAL or ES exists, field staff will work with regional supervisors and the Public Water Supply Section Chief to contact DHS to determine the health risk. Contacts with the USEPA should also be made through the DG Bureau. If a formal risk assessment is needed for a substance, the Deputy Division Administrator is responsible for requesting the risk assessment from DHS and assigning its priority.

15.3 Applicability of the Standards (6/16/2022)

When a substance is detected in public drinking water, the response is based on the following:

- The MCL, if there is a ch. NR 809 MCL.
- The ES, if there is no MCL, but there is a ch. NR 140 ES.
- The HAL, if there is no MCL or ES, but there is a HAL.
- A proposed or interim HAL, MCL, or ES if the contaminant does not have a final MCL, ES, or HAL.
- Contact the Public Water Supply Section Chief if there is no final, proposed, or interim MCL, ES or HAL.

15.4 Response to Detection of a Non-primary Contaminant (6/16/2022)

The following provides guidance for responding to detections of non-primary contaminants. DNR may require a public notice if an entry point produces water that meets any one of the following:

- Containing one or more substances of public health concern in excess of an ES, contained in ch. NR 140.
- Contains one or more substances of public health concern in excess of a HAL, established by DHS or USEPA.
- Contains one or more substances of public health concern in excess of a proposed federal or state HAL or ES

Note: DHS may issue a health advisory if:

- A drinking water source produces water which is equal to or less than the MCL, ES or HAL, but is likely to become contaminated and is adjacent to a drinking water source that is contaminated above the MCL, ES or HAL; or
- A drinking water source is within or likely to be within a contaminant plume which is known to contain concentrations above the MCL, ES, or HAL such that the drinking water source in question is likely to be contaminated.

For wells containing more than one contaminant, it may be appropriate to consider an additive risk factor. For advice in this area, contact the Public Water Supply Section Chief who will consult with DHS.

For public notices to be issued where the ES or HAL has not been exceeded, contact must be made with the Regional DG supervisor, Public Water Supply Section Chief, and the DG Bureau Director for advice and concurrence prior to the issuance.

There may also be situations when non-primary contaminant concentrations are high enough to warrant consultation with DHS as to the appropriate language for a public notice. The department may issue a Tier 1 Public Notice instead of a Tier 2 Public Notice for a non-primary contaminant based on the threat to public safety, and with consultation with DHS. The Regional DG Supervisor and the Public Water Supply Section Chief should be informed of any contaminant that poses an acute risk and requires a Tier 1 Public Notice.

The PN rule coordinator and the monitoring rule coordinator should be consulted for any situation requiring a PN. They will assist in completing the PN checklist.

15.5 Content of the Public Notice Letter (6/16/2022)

The Public Notice Letter should contain all of the following information:

- Factual information about the contaminant(s) found in the drinking water source or water system.
- The risk associated with drinking water containing the contaminant(s).
- Specific advice on whether or not to drink the water or other actions DHS recommends.
- Information on the timing for delivery and certification to the department, content of the notice, and delivery method requirements. The requirements for public notices will be based on the Tier level and requirements in NR 809, subch. VII. Information on the delivery and timing of repeat public notices should also be included.
- A recommendation that the facility pursue a permanent solution to the problem. This may include: well reconstruction, a new well in a different location, a connection to an adjacent water system known to be free of any contaminants, or treatment if the other options do not appear feasible.

The Appendix to this chapter contains a checklist to assist staff with common questions to address when issuing a Public Notice for a non-primary contaminant. Manganese is provided as an example in the checklist.

15.6 Notification of DNR and Other Agency Staff (6/16/2022)

Internal Notification: Following the decision to require a public notice for a ES or HAL, all interested parties within the Department need to be notified. They may include staff in other program areas such as waste management, remediation and redevelopment, or wastewater if the contamination in the well could be linked to a regulated pollution source. The Public Water Supply Section Chief may decide to notify the Office of Communications and the Deputy Division Administrator.

Under some circumstances it may be necessary to require issuance of a public notice on a fast-track basis because of an imminent public health threat, as in the case of a spill. For these situations, refer to Chapter 13 *Security and Emergency Response*, and Chapter 14 *Environmental Emergencies*.

External Notification: The Public Water Supply Section Chief or the DG Field Supervisor will notify DHS or DATCP who will assist with external communication to their partners directly. Typically, DHS will notify local health agencies.

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In some situations, a public water system may want to release information to media outlets. DG can assist with these efforts as appropriate. Refer to the Drinking Water and Groundwater Program Communications Toolkit.

The DG Bureau will release information in cases of statewide or interstate significance. For example, the DG Bureau may create a website with monitoring results for a non-primary contaminant.

For complex situations, a communication plan may need to be developed similar to the PN checklist.

15.7 Duration of Public Notices (6/16/2022)

Public notices issued for non-primary contaminants may need to be updated and continually posted as long as the impacted source is in use. A public water system that learns of the contaminated source and removes the impacted supply from service may discontinue the public notice. If no contaminated water enters the distribution system or is being served to the public, a public notice may not be necessary or should include language informing customers of the change in water supply and any potential historical exposure and risk.

A system may discontinue a public notice based on monitoring results that show contaminants are consistently below ES or HAL or a proposed standard. The requirement for discontinuing a public notice should follow the same protocols used for similar classes of contaminants in NR 809.

15.8 Monitoring Frequency of Non-primary Contaminants in Drinking Water (6/16/2022)

Staff should consult with their regional supervisor and/or the Monitoring Coordinator for non-primary contaminant monitoring requirements.

15.9 Corrective Action (6/16/2022)

A system is considered to be reliably below the non-primary level of concern when the contaminant's monitoring average is below that level. This is consistent with criteria for regulated contaminants in NR 809.

If an existing treatment system is also removing the contaminant of concern to levels below the HAL or ES or other health-based level of concern, no public notice is required.

If a system chooses to voluntarily install new treatment to remove a contaminant, the system may be required to obtain an approval prior to

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installation.

A community system that chooses voluntarily to install treatment for a contaminant is required to obtain plan approval from DNR prior to installation, per ss. NR 108.03(1) and NR 811.08(2), Wis. Adm. Code. See the DNR website for information about this process.

<https://dnr.wisconsin.gov/topic/DrinkingWater/PlanReview.html>

A non-community system that chooses to install treatment for a non-primary contaminant should consult with DNR first and use a DSPS approved product designed to treat that specific contaminant.

Operational monitoring and reporting may also be required to demonstrate the effectiveness of any treatment system or device installed to remove a contaminant of concern, under s. NR 810.07, Wis. Adm. Code (see also Section 15.8 of this chapter). Monthly operating reporting requirements, treatment processes and DNR REP report review are explained in chapters 3 and 7 of the public water supply operations handbook.

If a system chooses to voluntarily install treatment to come back under the non-primary contaminant level of concern, then treatment prior to the entry point is required, unless the department determines that treatment prior to entry to the distribution system is not feasible.

Consistency for Irregular Public Notices (PN)

Purpose: This form is to be used for public notice requirements not directly addressed in NR 809.

NR 809 Subchapter VII describes and provides public notice requirements for all violations of national primary drinking water regulations. Appendix A of NR 809 further specifies the PN Tier for each type of violation and situations requiring public notices. Further, public notices may be required for "other violations and situations determined by the department to require a public notice under this subchapter, not listed in Appendix A." This PN Checklist is intended to provide guidance on how to handle PNs for situations or contaminants not directly addressed in NR 809.

The checklist should be filled out by the PN rule coordinator, the monitoring rule coordinator, and public water section chief along with regional field staff working directly with the impacted PWS.

Example situations: PNs for exceedance of federal or state Health Advisory Levels

1. Situation requiring Public Notice:	
2. Consultation with DHS on language, frequency, type of PN	
Yes:	No
Comments:	
3. PN Trigger:	
4. PN Tier:	
5. Delivery of Initial PN:	
Community (OTM and MC):	
Non-Community (NNs and TNs):	
6. Frequency of PN:	
7. Delivery of ongoing or repeat PNs:	
Community (MC and OTM):	
Non-Community (NN and TN):	

PUBLIC NOTICE CHECKLIST

8. Duration and when PN can be rescinded:	
9. Communication needed to externals?	
Yes:	No
Comments:	
10. Location of PN Letter and PN notice (DWS, Violations Letters Master List, SharePoint Site):	
11. Logging PN requirements in DWS:	
12. PN Translation required or needed:	

Consistency for Irregular Public Notices (PN) - PFAS

Purpose: This form is to be used for public notice requirements not directly addressed in NR 809.


NR 809 Subchapter VII describes and provides public notice requirements for all violations of national primary drinking water regulations. Appendix A of NR 809 further specifies the PN Tier for each type of violation and situations requiring public notices. Further, public notices may be required for "other violations and situations determined by the department to require a public notice under this subchapter, not listed in Appendix A." This PN Checklist is intended to provide guidance on how to handle PNs for situations or contaminants not directly addressed in NR 809.

The checklist should be filled out by the PN rule coordinator, the monitoring rule coordinator, and public water section chief along with regional field staff working directly with the impacted PWS.

Example situations: PNs for exceedance of federal or state Health Advisory Levels

<p>1. Situation requiring Public Notice: PFAS concentrations that exceed DHS' recommended health hazard index at the entry point of public water systems. (Note that any exceedance of DHS' recommended health standards will be an exceedance of the recommended health hazard index).</p> <p><i>Note: PFOA and PFOS have newly created MCL standards in NR 809 (August 1, 2022). Refer to NR 809 for how to handle PNs for MCL exceedances and violations in DWS. The PN content for an MCL exceedance will include the date of the violation, information on the standard exceeded, required health effects language from NR 809, and next steps to be taken by the system. It should also include DHS-approved health effect language for health hazard index exceedances. Information on PFAS can be found here:</i></p>	
<p>2. Consultation with DHS on language, frequency, type of PN</p>	
<p>Yes: DHS was consulted.</p>	<p>No</p>
<p>Comments: DHS provided recommendations for the public notice Tier and health effects language for exceedances. DHS reviewed the draft PNs and assisted with the development of a communication plan, talking points and outreach to local health departments.</p>	
<p>3. PN Trigger: The average of an initial compliance sample and a follow-up confirmation sample collected at an entry point exceeds recommended health advisory levels or the health hazard index. System specialist will send system a PN letter and a copy of the PN to certify.</p>	
<p>4. PN Tier: Tier 2 for exceedances of DHS recommended health advisory levels or the health hazard index for PFAS.</p>	
<p>5. Delivery of Initial PN:</p>	

PUBLIC NOTICE CHECKLIST

Community (OTM and MC): Follow the Tier 2 PN timing and delivery methods in NR 809.952	
Non-Community (NNs and TNs): Follow the Tier 2 PN timing and delivery methods in NR 809.952	
6. Frequency of PN: Repeat PN every 3 months. The repeat PNs should provide information on the initial events which triggered the notice. They should also include any recent relevant monitoring results and actions taken by the system or the DNR.	
7. Delivery of ongoing or repeat PNs:	
Community (MC and OTM): Repeat PNs may be delivered in quarterly billing or other method approved by the Department	
Non-Community (NN and TN): Displayed at outlets (i.e. fixtures where water is available for consumption).	
8. Duration and when PN can be rescinded: The PN may be rescinded when the situation is resolved by either taking a source offline or through 2 consecutive quarterly compliance samples reliably below the DHS recommended health advisory levels and health hazard index. Consultation with the monitoring rule manager in central office is advised.	
9. Communication needed to externals? DATCP, DHS, Local Health Officer	
Yes: Field staff should inform their supervisor, central office, and DHS of the initial PN requirement.	No
Comments: DHS will inform local health officers and be available to answer any health-related questions.	
10. Location of PN Letter and PN notice (DWS, Masterlist, Sharepoint Site): PNs can be found here: Public Water Supply - PFAS Sampling - All Documents (wistate.us) PNs should only need a slight modification to be used for repeat posting requirements. The repeat PNs will contain the initial and recent sampling results.	
11. Logging PN requirements in DWS: The EnPA will need to create a PN requirement for the initial and the repeat requirements. Additional information and instructions can be found here:  Entering Repeat Public Notice Require	
12. PN Translation required or needed: Decided by regional supervisor and field rep based on the system demographics. Field staff can work with the PN rule manager request translation.	

Consistency for Irregular Public Notices (PN) - Manganese

Purpose: This form is to be used for public notice requirements not directly addressed in NR 809.

NR 809 Subchapter VII describes and provides public notice requirements for all violations of national primary drinking water regulations. Appendix A of NR 809 further specifies the PN Tier for each type of violation and situations requiring public notices. Further, public notices may be required for "other violations and situations determined by the department to require a public notice under this subchapter, not listed in Appendix A." This PN Checklist is intended to provide guidance on how to handle PNs for situations or contaminants not directly addressed in NR 809.

The checklist should be filled out by the PN rule coordinator, the monitoring rule coordinator, and public water section chief along with regional field staff working directly with the impacted PWS.

Example situations: PNs for exceedance of federal or state Health Advisory Levels

<p>1. Situation requiring Public Notice: Manganese concentrations that exceed health advisory levels at the entry point of public water systems. Note: Information on manganese in the environment and in drinking water including health concerns can be found by searching the WDNR external site for Manganese and Drinking Water. It can also be found here: https://dnr.wisconsin.gov/topic/DrinkingWater/Manganese.html</p>	
<p>2. Consultation with DHS on language, frequency, type of PN</p>	
<p>Yes: DHS was consulted.</p>	<p>No</p>
<p>Comments: DHS provided recommendations for the public notice Tier and health effects language for exceedances of both 300 micrograms per liter (µg/L) and 1000 µg/L manganese. DHS reviewed the draft PNs and assisted with the development of a communication plan, talking points and outreach to local health departments.</p>	
<p>3. PN Trigger: The average of an initial compliance sample and a follow-up confirmation sample collected at an entry point exceeds 300 µg/L or 1000 µg/L. System specialist will send system a PN letter and a copy of the PN to certify.</p>	
<p>4. PN Tier: Tier 1 for 300 µg/L or 1000 µg/L exceedances</p>	
<p>5. Delivery of Initial PN:</p>	
<p>Community (OTM and MC): Follow the Tier 1 PN timing and delivery methods in NR 809.951</p>	
<p>Non-Community (NNs and TNs): Follow the Tier 1 PN timing and delivery methods in NR 809.951</p>	

PUBLIC NOTICE CHECKLIST

6. Frequency of PN: Repeat PN every 3 months. The repeat PNs should provide information on the initial events which triggered the notice. They should also include any recent relevant monitoring results and actions taken by the system or the DNR.

7. Delivery of ongoing or repeat PNs:

Community (MC and OTM): Repeat PNs may be delivered in quarterly billing or other method approved by the Department

Non-Community (NN and TN): Displayed at outlets (i.e. fixtures where water is available for consumption)

8. Duration and when PN can be rescinded: The PN may be rescinded when the situation is resolved by either taking a source offline or through two (2) consecutive quarterly compliance samples reliably below 300 µg/L. Consultation with the monitoring rule manager in central office is advised.

9. Communication needed to externals? DATCP, DHS, Local Health Officer

Yes: Field staff should inform their supervisor, central office, and DHS of the initial PN requirement.

No

Comments:

DHS will inform local health officers and be available to answer any health-related questions.

10. Location of PN Letter and PN notice (DWS, Violations Letters Master List, SharePoint Site):

Violations letters master list on the DG projects drive. Letters for initial PN requirement and repeat requirements can be found here: \\dnr.state.wi.us\Programs\DG\DG_Projects\Public Water\PS_DWS_Letter_Customizations\Templates - to be added to DWS - to be added to DWS



Manganese PN letter_300ug.docx



Manganese PN letter_1000ug.docx

PNs should only need a slight modification to be used for repeat posting requirements. The repeat PNs for manganese are here:



Manganese PN letter and PN_1000ug for R



Manganese PN letter and PN_300ug for rep

11. Logging PN requirements in DWS: The EnPA will need to create a PN requirement for the initial and the repeat requirements. Additional information and instructions can be found here:



Coding Repeat Public Notices for Mangane

12. PN Translation required or needed: Decided by regional supervisor and field rep based on the system demographics. Field staff can work with the PN rule manager request translation.