requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. USIA is requesting approval of an information collection which requires prospective grantees to sign a statement that they, if awarded a grant, comply with provisions of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and the Education Amendments of 1972 regarding discrimination. Respondents will be required to respond only one time.

DATE: Comments must be received by November 30, 1987.

Copies: Copies of the Request for Clearance (SF-83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Retta Graham-Hall, United States Information Agency, M/ASP, 301 4th St., SW., Washington, DC 20547. Telephone (202) 485-7501, and OMB review: Francine Picoult, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Title: "Assurance of Compliance with USIA Regulations."

Abstract: Signing the "Assurance of Compliance with USIA Regulations" form indicates a commitment on the part of the grantee to comply with the three statutes referred to in the Summary above, as required by law. This assurance is given in connection with any and all financial assistance from the U.S. Information Agency after the date the form is signed, including payments after that for financial assistance approved previously. The applicant recognizes and agrees that any such financial assistance will be extended in reliance on the representations and agreements made in this assurance, and the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the applicant, its successors, and on the transferees, and assignees, and on the authorized official whose signature appears on the form.

Proposed Frequency of Responses: No. of Respondents—200; Recordkeeping Hours—0; Total Annual Burden—2.

Dated: October 22, 1987.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 87-24924 Filed 10-27-87; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Commission To Assess Veterans' Education Policy; Meeting

The Veterans Administration gives notice that a meeting of the Commission to Assess Veterans' Education Policy, authorized by section 320 of Pub. L. 99-576, will be held in Room 1015 of the Veterans' Administration Central Office, 810 Vermont Avenue, NW., Washington, DC, 20420, on November 16, 1987, at 9 a.m. The purpose of this meeting will be to review various aspects of the administration of veterans' education programs for the purpose of making recommendations to the Administrator and the Congress as the Commission determines appropriate. In addition, the Commission will review preliminary results of requests for feedback from various individuals involved in the administration of GI Bill benefits.

The meeting will be open to the public. Due to limited seating capacity, it will be necessary for those wishing to attend to contact Ms. Babette V. Polzer, Executive Director, Commission to Assess Veterans' Education Policy (phone: (202) 233-2886) prior to November 11, 1987.

Interested persons may attend or submit prepared statements for the Commission. Statements may be filed with the Executive Director for the Commission, c/o the Veterans' Administration (226D), 810 Vermont Avenue, NW., Room 427-D, Washington DC, 20420.

Dated: October 23, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-24949 Filed 10-27-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 52, No. 208

Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matter will be added to the "discussion agenda" for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, October 27, 1987, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC:

Memorandum re: Extending the time period in which the Corporation may take final action on proposed amendments to Part 332 of its rules and regulations concerning real estate development and insurance underwriting activities by insured banks:

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: October 26, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-25053 Filed 10-26-87; 3:12 pm]

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 4:30 p.m., Tuesday, November 3, 1987.

PLACE: Ramada Renaissance Hotel, 4736 Best Road, College Park, Georgia 30337, (404) 762-7676.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Request for Exemption from § 701.21(h)(2)(ii), NCUA Rules and Regulations. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Special Assistance under section 208 of the Federal Credit Union Act. CLosed pursuant to exemptions (8) and (9)(A)(ii).
4. Agency Adjudication. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

TIME AND DATE: 1:30 p.m., Wednesday, November 4, 1987.

PLACE: Ramada Renaissance Hotel, 4736 Best Road,College Park, Georgia 30337, (404) 762-7676.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Board Meeting.
2. Economic Commentary.,
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. National Credit Union Share Insurance Fund Dividend and Insurance Premium.
6. Fiscal Year 1988 Operating Fee Assessment.
7. Charter Aplication: Common Ground Community Federal Credit Union.
8. Final Amendments to Parts 701, 703, and 721, NCUA Rules and Regulations.
9. Proposed Rule: Repeal of § 701.10 regarding Establishment of a Cash Fund, and Amend § 748.0 Security Program.
10. Final Rule: Repeal of § 701.13, NCUA Rules and Regulations, Financial and Statistical and Other Reports.
11. Proposed Rule: Revision to § 701.20, NCUA Rules and Regulations, Surety Bonds.
12. Regulatory Review: § 701.38, NCUA Rules and Regulations Borrowed Funds from Natural Persons.
13. Report on Request for Comments regarding Secondary Mortgage Market Enhancement Act of 1984.
14. Legislative Update.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 357-1100.

Becky Baker,

Secretary of the Board.

[FR Doc. 87-25048 Filed 10-26-87; 3:00 pm]

BILLING CODE 7535-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (52 FR 38833 October 19, 1987).

STATUS: Open meeting.

PLACE: 450 5th Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, October 14, 1987.

CHANGES IN THE MEETING: Rescheduling.

The following item previously scheduled for Tuesday, October 20, 1987 has been rescheduled for Thursday, October 29, 1987, at 9:30 a.m.:

Consideration of whether to adopt Rule 6c-9 and Form N-6C9 under the Investment Company Act of 1940. Rule 6c-9 would provide an exemption from the provisions of the Act, under certain conditions, to permit foreign banks to offer their own debt securities or non-voting preferred stock in the United States without registering as investment companies or obtaining exemptive orders. The exemption would also be available where a foreign bank offers its securities in the United States indirectly through a finance subsidiary. The form would be filed by a foreign bank or foreign finance subsidiary to appoint a United States agent for service of process. For further information, please contact Ann M. Glickman at (202) 272-3042.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, in any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272-2149.

Jonathan G. Katz,

Secretary.

October 26, 1987.

[FR Doc. 87-25058 Filed 10-26-87; 3:26 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register
Vol. 52, No. 208
Wednesday, October 28, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[BERC-434-F]

Medicare Program; Standards for the Reuse of Hemodialyzer Filters and Other Dialysis Supplies

Correction

In rule document 87-22938 beginning on page 36926 in the issue of Friday, October 2, 1987, make the following correction:

On page 36934, in the second column, in the authority citation for Subpart U, insert "1861" after "1102."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWP-11]

Revision to the Sacramento Metropolitan Airport, CA; Control Zone

Correction

In rule document 87-22226 appearing on page 36230 in the issue of Monday, September 28, 1987, make the following correction:

§ 71.171 [Corrected]

In the third column, in § 71.171, in the 16th line, "38°44'43"" should read "38°41'43"".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-87-27]

Petitions for Exemption; Summary of Petitions Received

Correction

In notice document 87-24183 appearing on page 38991 in the issue of Tuesday, October 20, 1987, make the following correction:

In the second column of the page, under DATE, the date in the fourth line should read "November 9, 1987."

BILLING CODE 1505-01-D

federal register

Wednesday
October 28, 1987

Part II

Environmental Protection Agency

40 Parts 141, 142, and 143

Drinking Water Regulations; Public Notification; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141, 142, and 143

[WH-FRL-3254-6]

Drinking Water Regulations; Public Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action under section 1414(c) of the Safe Drinking Water Act (SDWA), 42 U.S.C. 300f *et seq.*, amends the general public notification regulations found at 40 CFR 141.32, and amends the public notification requirements for exceedances of the National Secondary Drinking Water Regulations for fluoride found at 40 CFR 143.5, to make them consistent with the new general public notification requirements. These changes apply to owners and operators of public water systems which fail to comply with certain requirements of the National Primary Drinking Water Regulations (NPDWRs), or certain monitoring requirements, and owners or operators of public water systems which have a variance or exemption. EPA is establishing requirements regarding the manner, form, content and frequency of the public notice.

In addition, EPA is promulgating new public notification requirements regarding lead contamination of drinking water to implement section 1417(a)(2) of the SDWA. The new public notification requirements for lead require public water systems to identify and provide notice to persons who may be affected by lead contamination in their drinking water, where such contamination results from the use of lead in the construction materials of the distribution system. These notification requirements, which apply to owners and operators of community and non-transient non-community water systems, apply in addition to the general public notification requirements for lead. EPA is today establishing requirements regarding the content, form, manner, and frequency of the lead notice.

Finally, EPA is amending the State implementation regulations found at 40 CFR Part 142, Subpart B to require States to adopt, at a minimum, the general public notification requirements found in revised § 141.32, and procedures for implementing § 141.32(b)(3)(iii), which allows States to extend the public notification time frames for certain Tier 2 monitoring violations from three months to one year.

EFFECTIVE DATE: The amended general public notice requirements under new 40 CFR 141.32, will take effect April 28, 1989. The public notice requirements for lead found at 40 CFR 141.34, the amended public notification requirements for violations of the Secondary Maximum Contaminant Level (SMCL) for fluoride found at 40 CFR 143.5, and the amended State implementation requirements found at 40 CFR Part 142, Subpart B will take effect November 27, 1987. The redesignation of 40 CFR 141.32 as 40 CFR 141.36 and the new introductory text are effective November 27, 1987. Section 141.36 expires April 28, 1989. In accordance with 40 CFR 23.7, this regulation shall be considered final Agency action for the purposes of judicial review at 1:00 p.m. eastern time on November 12, 1987.

ADDRESSES: Public comments and supporting documents for this rulemaking are available for review during normal business hours at EPA, Room 1101 East Tower, USEPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ralph Langemeier, Chief, Drinking Water Branch, Water Management Division, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone (913) 236-2815; or Carl Reeverts, Deputy Director, State Programs Division, Office of Drinking Water, 401 M Street, SW., Washington, DC 20460, telephone (202) 382-5522.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Statutory and Regulatory Background

A. Statutory Authority

On June 19, 1986, the Safe Drinking Water Act, 42 U.S.C. 300f, *et seq.*, ("SDWA" or "the Act") was amended. Section 1414(c), as amended, requires owners or operators of public water systems to notify the persons they serve when certain violations of the National Primary Drinking Water Regulations (NPDWRs) or certain monitoring requirements occur, when variances or exemptions are in effect, and when a system fails to comply with any schedule prescribed pursuant to a variance of exemption. The amendments require that EPA amend the existing public notification rule "to provide for different types and frequencies of notice based on the differences between violations * * * tak[ing] into account the seriousness of any potential adverse health effects which may be involved." Under the amendments, EPA must prescribe the form, manner, and frequency for giving notice under section 1414(c).

The SDWA amendments also added a new section 1417 prohibiting the use of certain lead pipe, solder, and flux in (1) the installation or repair of any public water system; or (2) any plumbing in a residential or nonresidential facility connected to a public water system and providing water for human consumption. Section 1417(a)(2) requires each public water system to identify and provide notice to persons who may be affected by lead contamination in their drinking water, where such contamination results from either the lead content in the construction materials of the system and/or corrosivity of the water sufficient to cause leaching of lead from plumbing systems. The Act requires notification even if the system is in compliance with the maximum contaminant level (MCL) for lead.

Section 1417(b) provides that the lead public notification requirements in section 1417(a)(2) shall be enforced in all States as of June 19, 1988. EPA is authorized to withhold up to five percent of a State's section 1443(a) public water system supervision program grant if the Agency determines that the State is not enforcing the prohibition and public notice requirements for lead.

B. Regulatory Background

On April 6, 1987, EPA proposed at 52 FR 10972 to amend the general public notification regulations (40 CFR 141.32), the public notification regulations for violations of the Secondary Maximum Contaminant Level (SMCL) for fluoride (40 CFR 143.5), and the State implementation regulations regarding public notification (40 CFR Part 142, Subpart B). In addition, EPA proposed new notification requirements regarding lead contamination of drinking water to implement section 1417(a)(2) of the Act.

The general public notification requirements found at 40 CFR 141.32 were promulgated on December 24, 1975 (40 FR 59570), and were subsequently amended on August 27, 1980 (45 FR 57345) and April 2, 1986 (51 FR 11412). EPA promulgated public notification regulations for violations of the fluoride SMCL, found at 40 CFR 143.5(b) of the National Secondary Drinking Water Regulations, on April 2, 1986 (51 FR 11412). EPA promulgated the State implementation regulations found at 40 CFR Part 142, Subpart B on January 20, 1976 (41 FR 2918). There are no existing requirements for public notification for lead (except that systems which violate the lead NPDWR are subject to the general public notification requirements in 40 CFR 141.32).

C. Public Comments on the Proposal

EPA requested comments on all aspects of the April 6, 1987 proposal. A summary of the major comments, and the Agency's response to the issues raised, are presented in the following section. A detailed recitation of the comments received and the Agency's responses are presented in the document "Response to Comments Received on the Proposed Public Notification Requirements of April 6, 1987," which is available in the public docket for this rulemaking.

EPA received 68 written comments on the proposed rule. Of the comments received, one was from an individual, 24 were from companies, 16 were from public or professional organizations, and 27 were from Federal agencies, States, and local governments.

EPA held a public hearing on May 1, 1987. Two representatives of professional organizations made oral statements at that time.

II. Summary and Explanation of Today's Actions

A. General Public Notification Requirements

1. Two-tiered Hierarchy for Violations

To better reflect the SDWA requirements for public notification, EPA proposed a two-tiered classification of violations based on violation type, in contrast to the original classification system which organized the public notification requirements according to type of public water system. Tier 1 violations included the more serious violations and were subject to more stringent public notification requirements; Tier 2 violations included less serious violations and were subject to less stringent public notification requirements. Tier 1 violations included failure to comply with the maximum contaminant level (MCL) established by EPA in a national primary drinking water regulation (NPDWR) and failure to comply with a prescribed treatment technique established in lieu of an MCL. Tier 2 violations included failure to comply with monitoring requirements, failure to comply with a testing procedure prescribed by an NPDWR, operating under a variance or exemption, and failure to meet a variance or exemption schedule. In the proposed rule, EPA requested comment on the classification system in general and the option of classifying certain monitoring and testing procedure violations as Tier 1, rather than Tier 2, as proposed.

The majority of commenters expressed general support for a two-tiered system for classification of violations. However, some commenters suggested a different classification of violations within the system. Several commenters stated that failure to comply with a variance or exemption schedule should be classified as a Tier 1, rather than Tier 2, violation. They reasoned that since a system operating under a variance or exemption does not have to comply with the NPDWR (including either an MCL or treatment technique), that failure to comply with any condition established for the operation of the system for the duration of the variance or exemption may put the public at increased risk. EPA agrees, and has modified the proposed tier structure to include a violation of a variance or exemption schedule in Tier 1.

Another commenter stated that treatment technique violations should be moved from Tier 1 to Tier 2 since prescribing a treatment technique replaces monitoring that is impractical or excessively expensive; thus treatment technique violations are equivalent to monitoring violations which are Tier 2. EPA disagrees. Sections 1401(l)(C)(ii) and 1412(b)(7)(A) of the SDWA provide that, where it is not economically or technologically feasible to ascertain the level of a contaminant in drinking water, EPA may specify treatment techniques for that contaminant in lieu of a numerical standard, i.e., MCL. A treatment technique is a comprehensive set of requirements to control a contaminant, not simply a substitute for monitoring. (In fact, an NPDWR specifying a treatment technique may well include certain monitoring requirements.) The Act thus equates MCLs and treatment techniques specified in lieu of MCLs as equivalent. Therefore, EPA believes that it is appropriate to classify treatment technique violations, as well as MCL violations, as Tier 1 violations and has made no change in the final rule.

Other commenters indicated that the regulations should not treat all MCL violations as Tier 1 violations, but that some distinction should be made between MCLs for contaminants that pose an acute risk and MCLs for contaminants that pose a chronic risk. For example, some commenters recommended that MCL violations for microbiological contaminants and nitrate be classified as Tier 1, and that chemical/radiological violations be classified as Tier 2. These commenters stated that little benefit may result from public notification for violations of NPDWRs for contaminants with chronic health effects unless the concentrations are extraordinarily high. One commenter suggested that an intermediate tier be created for MCL violations for non-microbiological contaminants. EPA has considered these comments and remains convinced that all MCL violations should be classified as Tier 1. Section 1412 of the SDWA requires EPA to specify those contaminants which may have an adverse effect on the health of persons, and to promulgate NPDWRs for them. While certain adverse health effects may generally be observed to occur within a population as a result of long-term exposure, individual variation within that population may mean that short-term exposure will affect the more sensitive individuals within the group. In addition, certain chemical/radiological contaminants—lead, for example—may produce subtle adverse effects early on in the exposure period which do not become grossly apparent until substantial damage has occurred. EPA therefore believes that treating all MCL violations as Tier 1 is the most prudent means for safeguarding as far as possible the health of consumers. Also, one of the main differences in the notification requirements between Tier 1 and Tier 2 violations is when the first notice must be given, i.e., within 14 days for tier 1 and within three months for tier 2 (with potential extension to one year for certain Tier 2 violations at the discretion of the State). Since the statute requires the notice of an MCL violation be given within 14 days, there is no option under EPA's classification for reclassifying a subset of MCL violations from Tier 1 to Tier 2.

One commenter proposed that EPA require public notification when the State believes that the raw water source may be contaminated. EPA believes that routine public notification in situations where the raw water source may be contaminated is beyond the scope of section 1414(c) of the SDWA, which specifically lists the situations where public notification is required. Under section 1431(a) of the SDWA, however, "* * * upon receipt of information that a contaminant which is present in or is likely to enter a public water system or an underground source of drinking water may present an imminent and substantial endangerment to the health of persons, and that appropriate State and local authorities have not acted to protect the health of such persons, [EPA] may take such actions as * * * necessary to protect the health of such persons * * *" EPA believes this provision gives EPA the authority to require public notification when contamination of source water threatens public water supplies. Likewise, section 1431 of the Act requires a State, as a condition for obtaining primary enforcement responsibility for public water systems, i.e., "primacy," to demonstrate that it has "adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances." In developing an adequate plan, it may well be necessary to provide for notification of consumers concerning the condition of their raw water source. It should also be noted that, while States will be required to adopt the two-tiered system made final today, nothing precludes a State from requiring public notification in additional situations. In light of the above, EPA has not added the requirement proposed by the commenter.

A number of commenters suggested that (1) monitoring violations be broken down into Tier 1 and Tier 2 monitoring violations, and (2) EPA specifically address the question of public notice for "trivial" monitoring violations. With regard to the classification of some monitoring violations as Tier 1 and others as Tier 2, some commenters suggested that a "persistent" violation of the monitoring requirements for microbiological contaminants be classified as a Tier 1 violation. Other commenters suggested that EPA classify "repeated" monitoring and testing procedure violations as Tier 1 violations. Still other commenters suggested that EPA classify all monitoring violations as Tier 1 violations since failure to comply with the monitoring requirements may result in failure to disclose an MCL violation (which would be a Tier 1 violation). In fact, a system that suspects it is in violation of an MCL might choose to forego monitoring if monitoring violations are classified as Tier 2 violations, since it would only have to report a failure to monitor under the less stringent notification requirements for Tier 2 violations, rather than report an MCL violation under the more stringent Tier 1 notification requirements. EPA agrees with the commenters that failure to monitor may in some circumstances disguise an MCL violation; however, it is difficult to establish by general rule at what point a number of monitoring failures is significant enough to justify classification as a Tier 1 violation requiring more prompt public notification. Also, a monitoring violation may be of short duration (e.g., taking a chemical/radiological sample several days past the sampling date, rather than not taking the sample at all). EPA has decided not to reclassify any monitoring violations to Tier 1, principally because a more detailed tier structure would be too complex to implement and it would preclude State flexibility to tailor notification requirements to the severity of the local problem. EPA is concerned that classifying too many violations as Tier 1 could result in so many notices that the consumer might begin to ignore them.

With regard to the question of public notice for "trivial" violations, EPA does recognize that occasional missed samples, sampling errors, use of an incorrect sampling frequency, and other similar Tier 2 monitoring violations should not require the same level of notice as other Tier 2 violations. Several commenters suggested that EPA provide for waivers from public notification requirements for these minor violations; however, EPA does not interpret section 1414(c) of the SDWA to allow for waiver of notice for any violation. Rather, the Act specifically states that notice of continuous violations be given "no less frequently than every three months" and that notice for less serious and infrequent monitoring violations be given, at a minimum, "no less frequently than annually." In view of the difficulty of defining and listing "persistent," "significant," and "trivial" violations in a general rule, EPA has decided to classify all monitoring violations as Tier 2 violations. However, under the final rule, States have the option of reducing the frequency of notice for "minor" Tier 2 monitoring violations from quarterly to annually, as long as the violations are not continuous in nature. Specifically, the final rule contains a new section, § 141.32(b)(4), which allows, at the discretion of the State, less frequent notice for minor monitoring violations if EPA has approved a State program that includes regulatory definitions of "minor monitoring violations" and specifies the frequency of public notification, *or* regulations specifying procedures for State approval of less frequent public notice on a case-by-case basis. In either case, notification may be no less frequent than annual. This notice promulgates special primacy requirements to implement this provision under § 142.16.

The revised tier structure for public notification, described above, appears in Table 1.

TABLE 1.—CLASSIFICATION OF VIOLATIONS FOR PUBLIC NOTIFICATION

Tier 1 violations	Tier 2 violations
1. Failure to comply with a MCL.	1. Failure to comply with monitoring requirements.
2. Failure to comply with a prescribed treatment technique.	2. Failure to comply with a testing procedure prescribed by a NPDWR.
3. Failure to comply with a variance or exemption schedule.	3. Operating under a variance or exemption.

2. Manner of Notice

In the April 6, 1987 notice, EPA proposed, for Tier 1 violations, notice by newspaper (with posting in the absence of a newspaper of general circulation), mail delivery, and electronic media (for certain violations) for community water systems; non-community water systems could follow the same requirements or substitute continuous posting. For Tier 2 violations, EPA proposed notice by newspaper (with posting in the absence of a newspaper of general circulation) for community and non-community public water systems, with the option of posting in lieu of newspaper notice by non-community water systems. EPA invited comment additionally on (1) what public notification requirements should apply to non-transient non-community water systems; (2) whether a requirement to inform new customers of potential health hazards was appropriate; (3) whether to require individual notice to all consumers by hand delivery; and (4) whether to require public water systems to provide an annual violations summary to their customers.

a. *Newspaper Notice.* As noted in the April 6, 1987 notice, the SDWA, as amended, states that "notification of violations shall include notice by general circulation newspaper serving the area. * * *" Therefore, EPA proposed that newspaper notice be required for all violations. Some commenters stated that newspaper notice would be impractical for very small public water systems such as mobile home parks, small subdivisions, and water co-operatives. Some commenters requested that EPA waive newspaper notice under certain circumstances (such as for Tier 2 violations), or for small systems. In view of the statutory requirements regarding newspaper notice for all violations, EPA does not believe it has the option of entirely waiving the notification requirement for some subset of violations. However, as explained below, in the final rule the proposal was modified to allow posting and hand delivery in lieu of newpaper notice.

The proposed rule also required that the newspaper notice be published in a daily or weekly newspaper of general circulation in the area served by the system. EPA considered the "area served by a weekly or daily newspaper" to be the area where a paper is routinely available. In the case of a public water system in violation, the newspaper selected should be one that virtually all customers would be expected to subscribe to or otherwise receive. If no single newspaper could reasonably be expected to be available to the system's customers, then EPA would expect the notice to be published in several newspapers, the intent being to reach virtually all customers. One commenter requested that EPA provide guidance on the definition of "newspaper notice." This requirement could be satisfied in several ways. The most common means of issuing public notice in a newspaper is to take out a notice in the legal notice section. It is also possible to purchase more prominent advertising space. In some cases, a newspaper may be willing to write an article on the subject as a news story, or make prominent space for the notice available as a public service and at no cost to the public water system.

b. *Mail Notice.* EPA proposed mail notice for all Tier 1 violations as part of the initial notice, and as a subsequent notice for any continuing Tier 1 and Tier 2 violations. Notice could be mailed separately or mailed with the water bill. Proposed § 141.33(a)(1)(B) provided that "mail delivery may be waived by the primacy agent in writing where the primacy agent determines that the violation has been corrected within 30 days."

EPA received several comments concerning the appropriateness of notice by mail delivery for certain violations. Some commenters suggested that mail notice be used "sparingly," e.g., for "serious" Tier 1 violations, or replaced by newspaper notice for Tier 2 violations. One commenter indicated that the requirement for written waiver of notice was burdensome, and should be deleted. Still another commenter stated that more time should be allowed for correction of the violation before notice is required, explaining that a violation of a microbiological MCL can be corrected within 30 days, but that correction of other MCL violations can take longer. Another commenter suggested that mail notice be eliminated entirely, as "the delay inherent in notication by mail (or by hand) substantially undermines the usefulness of such notification."

Several commenters, however, objected to any waiver of notice by mail delivery. One commenter expressed the concern that consumers may not be reached by other forms of notice. Another commenter indicated that notice by mail delivery allows users to take such steps as they deem necessary to reduce the likelihood of repeated intermittent violations, and may also be needed to allow especially sensitive members of the public to act to protect their health from intermittent violations—especially those posing acute risks or aggravating existing health problems.

EPA proposed a waiver of mail notice to avoid causing undue alarm upon receiving a notice after the violation has been promptly corrected. EPA believes that when a violation has been corrected, newspaper notice is sufficient without subsequent mail notice after correction of the violation. In response to comments, EPA has extended the deadline for mail delivery from 30 to 45 days in the final rule. This not only gives the system extra time to correct the violation but also allows time to pick up on a billing cycle and therefore reduce the cost of notification. Mail notices will generally address violations with chronic or long-term health effects (EPA expects that violations of NPDWRs for microbiological contaminants will be corrected more quickly); therefore the extra time is not likely to create a problem.

EPA is requiring that any waivers be approved by the State in writing. In developing this waiver provision, the Agency was concerned that it could be used to avoid giving public notice where notice is clearly required. By requiring the State to approve the waiver, the State will have the opportunity to determine that the violation has actually been corrected. Also, the waiver must be in writing so that there is no danger that public water system representatives could erroneously conclude that public notification was waived during a telephone conversation with a State official.

One commenter suggested that EPA require that mail notice be sent not only to the billed address but also to the service address when the two are distinct. EPA endorses this suggestion and encourages its use. However, since this requirement would be difficult to specify in a rule of general applicability that takes into account all the different circumstances involved, EPA has decided to leave this requirement to the discretion of the States.

A number of commenters expressed support for hand delivery of the public notice as an alternative to mail notice for small public water systems such as mobile home parks and subdivisions. EPA has considered this suggestion and believes it to be a viable, effective alternative to mail notice for small public water systems, saving the cost of mailing. Therefore, the final rule allows for the option of hand delivery in place of mail notice.

c. *Posting.*

(1) *General.* In the April 6, 1987 notice, EPA proposed to require posting for community water systems not served by a daily or weekly newspaper of general circulation, and as an option for non-community water systems. The majority of commenters supported this proposal. Two commenters requested that EPA specify the minimum number of postings according to type of public water system (e.g., amusement park, rest stop) and indicate at what point or points the notice should be posted. EPA has considered these suggestions and believes, due to the variety of public water systems in terms of the number of persons and size of the area they serve (particularly non-community water systems), that it is not practical to specify in a general rule the minimum number of posting and posting locations. The Agency believes that these

decisions are best handled on a case-by-case basis and therefore should be left to State discretion.

One commenter stated that EPA's argument for allowing posting by non-community water systems, in lieu of newspaper notice is flawed. As explained in the April 6, 1987 proposal, the rationale for this provision was that: (1) The paramount concern of the transient users of a non-community public water system is the current quality of the drinking water; (2) transient users are generally less interested in the past problems of the non-community water system; (3) transient users may not have wide access to local media such as newspapers; and (4) identification of transient users and their addresses would make subsequent mail notice impractical. The commenter stated that EPA's argument is invalid because it rests on the assumption that transient users do not listen to radios, watch television, or read newspapers. The commenter stated that newspaper notice should be required, "as envisioned by the statute," and electronic media notice should be required for Tier 1 violations in addition to posting.

The decision to allow posting as an option was made based on EPA's conclusion that continuous posting is more stringent than the one-time newspaper notice it would replace since posting a notice for the duration of the violation would most likely reach more consumers that a one-time newspaper notice. EPA did not mean to imply that transient users of a public water system do not use the local media; their exposure to such media in many cases tends, however, to be limited (for example at rest stops long distances from home). Also, posting for non-community water systems is not required; it is merely an option. If newspaper notice will be more effective, the system can use it instead or the State can require it. Posting for community water systems is allowed only where there is no daily or weekly newspaper of general circulation serving the area served by the system, since the newspaper is not available.

Two commenters stated that posting may not be adequate for schools, nursing homes, etc. Another commenter suggested that EPA require that additional notice be sent to parent-teacher associations, school health officials, the appropriate local health agency, and existing community health organizations. Another commenter indicated that some effort should be made to inform the parents or guardians of the persons affected. EPA recognizes this concern and encourages public water systems and/or States to provide additional notice where appropriate to effectively inform these consumers. EPA believes, however, that specific notices tailored to individual subcategories of public water systems—other than the regulatory division between community, transient non-community, and non-transient non-community water systems—should not be prescribed in federal regulations. Determining the specific notice appropriate to each local situation is the responsibility of the public water system. Additional categories of notice tailored to specific circumstances would remove the flexibility of the system and States to respond appropriately to situations of this type.

(2) *Non-transient non-community water systems.* On November 13, 1985, EPA proposed to amend the definition of "community water system" to include non-community water systems serving non-transient users (e.g., schools, factories, daycare centers) and proposed a revised definition for comment (50 FR 46918). In the April 6, 1987, public notification proposal, EPA proposed that these non-transient non-community water systems comply with the public notification regulations for non-community public water systems, rather than the public notification requirements for community water systems. Also, EPA proposed that the requirement for notice to new billing units not apply to non-transient non-community public water systems.

On July 8, 1987 (52 FR 25690), EPA published final NPDWRs for eight volatile synthetic organic chemicals (VOCs). Rather than redefining "community water system," the rule created a subset of non-community public water systems called "non-transient non-community public water systems." (The remaining subset is composed of transient, non-community public water systems.) The rule defines "non-transient non-community public water system" as "a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year." The NPDWRs for VOCs apply to non-transient non-community water systems as well as community water systems. A number of commenters on the proposed public notification rule stated their views concerning the then undecided proposal to amend the definition of community water system to include non-transient non-community water systems (i.e., to subject the latter to NPDWRs). Since these comments were more appropriate to the November 13, 1985 proposal and did not address the manner of notice for these systems (which was the subject of the April 6, 1987 notice), EPA is not responding here to those comments. (EPA responded to them in the final VOC rulemaking.)

One commenter stated that non-transient non-community water systems should be required to notify the public in the same manner as community public water systems. The remaining commenters on this issue were in favor of non-transient non-community water systems giving notice in the same manner as for transient non-community water systems. One commenter noted that a non-transient non-community water system, such as a factory, generally has finite boundaries and a relatively "stable" consumer base coming daily to the same location. The commenter stated that, by posting at the facility, individuals to whom the notice is directed are assured of seeing it, as opposed to taking the chance that they will miss or ignore notice provided by newspaper, media, or mail. Another commenter indicated that to transmit information affecting a relatively small and identifiable target population to thousands of unaffected people by newspaper, radio, and television would be unwarranted and excessive.

EPA has concluded that it is appropriate for non-transient non-community public water systems to give notice in the same manner as transient non-community water systems for the reasons stated in the proposal and by the commenters who agreed with the proposal.

d. *Electronic media notice.* The SDWA amendments provide that notice "whenever appropriate, shall also include a press release to electronic media * * * ." In the April 6, 1987 notice, EPA proposed that electronic media notice be required for any MCL or treatment technique violation which poses an acute risk to human health (such as high coliform, turbidity, or nitrate levels), as the Agency believes that acute risks require immediate notification and may require consumers to take special precautions (e.g., to boil water or seek alternative water supplies). Under the proposal, States would have broad discretion to define acute risk.

Several commenters criticized the lack of a definition of "acute risk" in the proposal. Although it is forseeable that there may be a variety of circumstances where violation of a NPDWR may pose an acute risk, it is difficult to define them by regulation. Most MCLs are based upon long-term, low-level exposure. Normally a slight violation above an MCL would not be considered acute, while a very high concentration may well be acute. "High" concentration levels are difficult to define; it depends on the contaminant, the concentration, the population at risk, the duration of the contamination incident, and many other factors. Based on the above considerations, in the final rule, EPA has defined only one acute violation: violation of the MCL for nitrate. Generally, any violation of this MCL is considered to be cause for concern. Although violations of the turbidity and coliform MCLs are generally recognized as acute situations, EPA is in the process of revising the turbidity and coliform requirements in the course of developing filtration requirements for public water systems using surface water. As part of that rulemaking, EPA will consider whether violations of any of the filtration treatment technique requirements should be classified as acute. This final public notification rule allows States, at their discretion, to require electronic media notice for other violations that they believe pose an acute risk to human health.

Several commenters suggested that EPA expand the use of electronic media notice to a broadened category of Tier 1 violations. One commenter stated that a press release to electronic media should be required in conjunction with every newspaper notice. It was noted that "most people" in the United States get their news primarily from the electronic media. This commenter also noted that renters and other occupants may never receive notice by mail since they are not billed directly for their water. One commenter expressed the opinion that chronic illnesses and diseases with a long latency period are just as important in terms of cost to individual and society as are acute health effects; therefore, electronic media notice should be required for all Tier 1 violations. EPA has considered these comments and decided not to expand the electronic media notice requirement to include violations posing chronic risks. EPA believes the general public associates electronic media notice with urgency and the need to take immediate action, and the Agency is concerned with causing undue alarm and requiring so many notices that the public may ignore situations where immediate action is required. The Agency also believes that the rule adequately addresses MCL and treatment technique violations by requiring repeat notice for continuing violations; repeat notice keeps the information concerning a chronic situation before the consumer. In addition, States may adopt public notification requirements that are more stringent than the Federal requirements, including those for chronic violations, and therefore can require electronic media notice for chronic violations if they believe it is appropriate.

Another commenter requested that EPA require that electronic media notice not just be "furnished" to, but actually broadcast, by the media. EPA believes that the suggestion that actual broadcast of the notice be required would be too costly for many small public water systems to implement, and therefore the Agency has not adopted this requirement.

e. Other means of notice. (1) Individual notice by hand delivery. In the April 6, 1987 notice, EPA requested comment on whether it should require public water systems to supplement individual delivery by direct mail or mailing with the water bill with hand delivery, or posting at multiple family dwellings, apartment complexes, and other locations where individual consumers may not receive a water bill. The Agency expressed concern that hand delivery of public notice would be difficult and impractical to carry out.

The majority of commenters on this proposal opposed the requirement for public notice by hand delivery. They were concerned that such a requirement would be difficult for the State to enforce, that the public water system would be unable to clearly identify which individuals should get this type of notice, and that public water systems would encounter problems gaining legal entry. In response to these concerns, EPA is not requiring public notice by hand delivery.

Several commenters noted, however, that hand delivery as an additional optional method of notice would be desirable, particularly for small public water systems such as small subdivisions and mobile home parks. EPA agrees. EPA also believes that notice by hand delivery is more effective because it appears by itself, involves direct contact with the consumer, and is less likely to be ignored (as a mail filler might). Therefore, EPA has amended paragraphs 141.32 (a)(3)(i), (a)(3)(ii), (b)(3)(i), and (b)(3)(ii) to allow public notice by hand delivery as an alternative to mail notice or posting.

(2) Annual Summary of Violations. EPA also requested comment on whether it should require owners and operators of public water systems to provide their customers with an annual summary of the overall compliance status of the system. Such notices would inform consumers that often ignore or fail to realize the significance of public notices received sporadically with water bills or separately over the past year and would have significant impact on the consumers of public water systems which have repeated violations. The Agency was concerned, however, that this additional requirement could be administratively burdensome to small public water systems and redundant with the general notice requirements.

The majority of commenters on this proposal did not support it. Several commenters stated that this type of notice, by requiring public water systems to republish information on violations which generally will have already been corrected, would be redundant, burdensome, and difficult to administer.

Other commenters indicated that reissuance of notice would only anger and confuse consumers, particularly if notice would be required regardless of whether violations had been corrected; i.e., when the system is in compliance. The minority of commenters who supported an annual summary of violations stated that such notice would provide documentation of the compliance history of the utility, and was consistent with Congress' intent that the consumers be more fully aware of the compliance history of their utility. One commenter suggested that the annual summary simply should be made available to the public, with copies sent to EPA and the State, rather than requiring distribution to all consumers. The same commenter also suggested that an annual summary should not be required if there were no violations.

EPA has considered these comments and has decided not to require an annual summary of violations. Documentation concerning the compliance history of public water systems is maintained by both EPA and primacy States, and already is available to the public upon request. Also, States may choose to require an annual summary as part of their public notification requirements. For instance, California is currently developing public notification regulations requiring annual notice of violations to consumers. In addition, public water systems have the option, as part of their public information program, to provide annual notice on their own. In view of these considerations, EPA is not requiring public water systems to provide a summary of violations in this final rule.

(3) Notice to new billing units. In the April 6, 1987 **Federal Register** notice, EPA also proposed to add a new requirement that owners and operators of community water systems notify each new billing unit of any existing Tier 1

violation, i.e., MCL or treatment technique violation, at the time service begins. The purpose of this requirement would be to inform new customers of potential health hazards. In order to avoid the additional time and expense which would be involved in the preparation of a new notice each time service to a new customer begins, EPA proposed that the system provide a copy of the most recent notice issued for each violation.

In general, the majority of comments on this proposal were favorable. Several commenters indicated that, while the idea of notice to new billing units is reasonable and compatible with the consumer's right to know the compliance status of its public water system, the requirement may be difficult for the State to enforce because systems routinely add service connections without State supervision. Other commenters had difficulty with the specific wording of the proposed requirement. Under the proposed rule, owners or operators of community public water systems were required to give notice to new billing units or hookups "prior to or at the time service begins." One commenter suggested that the language "or at the time" should be stricken to enable the private citizen to make an educated and informed decision as to the quality of water he or she will be drinking. A second commenter observed that sometimes customers move in before transferring responsibility for service and that the utility has no means of knowing this. EPA agrees that there may be cases where occupancy and use have taken place without the knowledge of the public water system; therefore, EPA has decided to retain the proposed language. The Agency encourages public water systems to give notice to new billing units "prior to" the time service begins, whenever possible.

EPA believes that new customers should be informed of potential health hazards which may be associated with their water systems. Therefore, the Agency is retaining its proposal to require community water systems to give notice to all new billing units of any outstanding Tier 1 violations. It should be noted that a violation of a variance and exemption schedule has been changed to Tier 1 violation and therefore would also be covered by the requirement.

(4) Notice by the State. EPA proposed in the April 6, 1987 **Federal Register** that the State could give notice on behalf of the owner or operator of a public water system. The preamble to the proposed rule specified that when the State gives notice under the provision, "the public water system remains legally responsible for meeting the public notification regulation requirements."

One commenter requested that EPA clarify how a public water system can remain legally responsible for meeting the public notification requirements if the State is the party that issues the notice. Another commenter stated that public water systems themselves, not the State, should retain control of the public notification process. The same commenter stated that the only time a State should be allowed to issue the public notice is when the State actually takes over a public water system due to failure of the system.

The preamble statement in the proposal was intended to emphasize the fact that, under the SDWA, the owner or operator of the public water system is responsible for issuing public notice. The provision allowing notice by the State was not intended to allow the State to take over the public notification functions of a public water system on a routine basis, but to allow for public notification by the State where the public water system fails or is otherwise unable to issue public notice (e.g., in the case of a recalcitrant system).

3. *Form and Content of Notice*

A number of commenters discussed the need for flexibility in the requirement that systems provide a telephone number in the public notice. For instance, some commenters suggested that large utilities provide extensions to allow the public to contact the designated person directly. This is certainly permissible under the final rule. Other commenters asked that small systems be allowed to indicate that the responsible party can only be reached at home during certain hours. This is permissible as long as the public can reach the appropriate person for further information during the designated hours. Some commenters thought that the notice should include State and EPA telephone numbers for callers interested in further information on the mandatory health effects language. There is nothing in the rule to prevent this. If a utility were to coordinate with the appropriate State and EPA officials, this could be beneficial. The details would have to be agreed upon by the involved parties.

One commenter stated that the SDWA does not require the general notification requirements of proposed § 141.32(c) to specifically indicate the "population at risk." The SDWA amendments of 1986, however, stipulate that notices shall take into account the likelihood of reaching all affected persons. The "population at risk" can be interpreted at least two ways: (1) those persons connected to the specific portion of public water system that is contaminated (with the remainder of public water system meeting the standards); or (2) certain easily identified individuals which are most likely to be affected by a certain contaminant (e.g., infants, but not older persons, in the case of nitrate). EPA believes that, in circumstances where the "population at risk" can easily be identified it should be indicated in the notice because it is useful to the consumer in understanding the risks involved.

Most of the comment pertaining to the form and content of public notices concerned the requirement that systems use mandatory language to describe health effects. EPA believes that mandatory language is the most appropriate (if not the only) way to inform the affected public of the health implications of violating a particular EPA standard. It is appropriate for EPA to specify the language because the Agency is familiar with the specific health implications of violating each standard, which were documented in the course of developing the NPDWRs. EPA is aware that the health implications of these violations do vary in their magnitude. Public water systems are free to make that point in their public notices as long as the mandatory language is included as well. For instance, the system may want to note that its violation is only slightly above the standard. In fact, the public water system or State may supplement the notice as long as the notice informs the public of the health risks which EPA has associated with violation of the standards and the mandatory health effects language remains intact.

A number of commenters thought that the proposed mandatory health effects language was too complex. Accordingly, EPA has revised the language to simplify it. The goal was to draft language understandable to that portion of the public reading at the eighth grade level, while at the same time trying not to minimize the seriousness of the problems.

The mandatory language relating to cancer received the most comments. One commenter stated that the proposed language implicitly disparaged the relevance of animal data to human risk. This was not EPA's intent; the Agency has made language changes to clarify the human health risks of drinking water in violation of the drinking water standards for VOCs. In the mandatory language promulgated in the final rule, EPA has attempted to convey an understanding of the basis for the standard, taking into account the sources of data (e.g., human and/or animal studies) and some of the uncertainties involved in the extrapolation of the data to human consumption of drinking water. The final mandatory language for carcinogens takes these concerns into account.

Some commenters recommended that the mandatory language requirements be extended to the contaminants currently covered by National Interim Primary Drinking Water Regulations (NIPDWRs). EPA has decided not to do so at that time because the NIPDWRs will be revised shortly, as required by the 1986 SDWA amendments, and mandatory language for public notice will be included at that time. EPA believes that to require mandatory language for violation of the NIPDWRs and then change it in a matter of months would cause unnecessary confusion for regulations, public water systems, and the affected public. Therefore, this rule only requires mandatory language for the revised NPDWRs.

4. *Frequency of Notice*

In the April 6, 1987 **Federal Register** notice, the following frequencies for public notice were proposed:

For Tier 1 violations, community water systems would give newspaper notice within 14 days with no repeat notice required, mail notice within 30 days with quarterly repeat notice until the violation was corrected, and electronic media notice within 7 days with no repeat notice. Posting would begin within 14 days and would be continued until the violation had been corrected.

For Tier 2 violations, community water systems would give newspaper notice within three months, to be followed by quarterly repeat mail notice until the violation was corrected. Posting would begin within three months and would continue until the violation had been corrected.

Several commenters stated that the requirement to give public notice within a specified period of time "after the violation" was too vague. Their concern was that public water system operators are not aware that they are in violation until sufficient information is made available to them. This generally does not occur until the lab analysis is complete and the data are evaluated (by the public water system or the State) to determine if a violation under the State or EPA regulations has occurred. This may take place days, weeks, or even a month after the first sample is taken, depending on the monitoring protocols for each primary drinking water regulation.

EPA recognizes the practical concerns raised by the commenters. In developing the final rule, EPA considered the 1986 amendments, which amended section 1414(c) to delete specific reference to giving the notice " * * * as soon as practicable after the discovery of the violation with respect to which the notice is required." This was replaced by " * * * as soon as possible, but in no case later than 14 days after the violation." There is no indication in the legislative history that Congress intended to change the "triggering event" for public notification. The proposed rule language explicitly tracked the amended section 1414(c) language; the final rule retains the same language. EPA interprets the phrase "after the violation" in the final rule to be consistent with the definitions, monitoring procedures, and protocols in each NPDWR for making a compliance determination. The public notification time period will not begin until after sufficient information is available to the system indicating that a violation under Federal or State regulations has occurred. This does not imply that a system should wait for the State primacy agency to analyze the laboratory data and notify the system that a violation has occurred. EPA expects the public notification period to start at the time the system has sufficient data (from the State laboratory or other sources) to make a compliance determination.

A number of commenters raised concerns regarding the time periods allowed for the various notices to be issued. Specific comments were received on the requirement that mail notice for Tier 1 violations be sent within 30 days. Several commenters thought that 45 or 60 days was more appropriate, with some commenters suggesting 90 days to allow the public water system to link the violation notice to quarterly billing cycles. Other commenters objected to the seven-day notice for acute violations, suggesting that 48–72 hours was more appropriate.

Based on an evaluation of these comments, EPA has reconsidered its position and made several changes to the timing for Tier 1 violations. The final rule requires notice for acute violations to be issued as soon as possible, but no later than 72 hours after the violation. EPA reduced this requirement from seven days to ensure that there is immediate notice for these serious violations. Additionally, the timing for direct mail notification of Tier 1 violations was changed in the final rule from 30 days to 45 days to accommodate the monthly and bi-monthly billing cycles of public water systems. This change will allow over 50 percent of the large and medium community water systems to include violation notices in the same mailing as the bill.

Several commenters expressed concern that EPA had reduced the frequency of newspaper notice from three times in the current rule to a one-time publication. The commenter thought this change was not in keeping with Congress' intent to improve the notification rule to maximize the likelihood of reaching all affected persons. In determining the appropriate frequency of newspaper notice, EPA carefully considered not only the likelihood of reaching all affected parties, but also the costs involved. EPA considered the type of notice which is best suited to different systems, and different situations. For example, hand delivery of a notice to the residents of a small trailer park may be the most effective means of notifying them. In addition to newspaper notice, the public notification rule provides for a variety of additional forms of notice which EPA believes increase the likelihood of reaching all affected parties (except where the violation is promptly corrected). Also, for continuing violations, repeat notice of some type is required. In addition, States have the option of adopting public notification regulations more stringent than the federal rules. EPA believes that this combination of types and frequency of notice, combined with State discretion to require additional notice when necessary, will be effective in increasing the likelihood of reaching all affected parties (except where the violation is promptly corrected) and, therefore, fulfills Congressional intent.

A summary of the final regulation is given in Table 2 below.

BILLING CODE 6560-50-M

TABLE 2 -- SUMMARY OF THE FINAL PUBLIC NOTIFICATION REQUIREMENTS

Violation Category Type	Mandatory Health Effects Info. Required (All PWS)	Notice to New Billing Units (CWS Only)	Type of PWS	Time Frame Within Which Notice Must be Given (1st Box - Initial Notice, 2nd Box - Repeat Notice) Violation 72 hours 7 days 14 days 45 days 3 months Annual
TIER 1			Community	Newspaper[4] | No Repeat
1. MCL	Yes	Yes		Mail or Hand Delivery[2] | Quarterly Repeat
2. Treatment Technique	Yes	Yes		Elec. Media[3] | No Repeat
3. V or E Sch.Viol.	Yes	Yes		
			Non-Community[5]	Option 1: Notice as for Community Water Systems or Option 2: Posting or Hand Delivery | Continuous/Quarterly Repeat
TIER 2			Community	Newspaper[4] | Quarterly Repeat by Mail or Hand Delivery
1. Monitoring[1]	No	No		
2. Testing Procedure	No	No		
3. V or E Issued	Yes	No	Non-Community[5]	Option 1: Notice as for Community Water Systems or Option 2: Posting or Hand Delivery | Continuous/Quarterly Repeat

Footnotes:
1. Less frequent notice (but no less than annual) to be required as in §142.16(a).
2. May be waived in accordance with §141.32(a)(1)(ii).
3. Required only for acute violations as identified in §141.32(a)(1)(iii).
4. If no newspaper of general circulation is available, posting or hand delivery is allowed as specified in §141.32(a)(3)(i) and §141.32(b)(3)(i)).
5. Includes both transient non-community public water systems and non-transient non-community public water systems.

BILLING CODE 6560-50-C

B. Public Notification Requirements for the Fluoride SMCL

In the April 6, 1987 **Federal Register** notice, to establish mandatory health effects information in public notices for violations of the MCL for fluoride, EPA proposed to incorporate by reference the existing mandatory public notification language for violations of the SMCL for fluoride contained in § 143.5(b) of the National Secondary Drinking Water Regulations into § 141.32(f) of the proposed public notification rule. Since systems which are in violation of the MCL (4.0 mg/1) necessarily exceed the SMCL (2.0 mg/1), the mandatory language in § 143.5(b), as it currently exists, applies to MCL violations as well. Indeed, the § 143.5(b) language includes health effects information concerning both secondary maximum contaminant level exceedances and maximum contaminant level exceedances and maximum contaminant level violations. In addition, several changes to the current fluoride SMCL notification rule (§ 143.5(b)) were necessary to reconcile its provisions with the public notification requirements in the SDWA amendments, which were enacted after EPA promulgated the notification requirements for fluoride SMCL violations. Specifically, EPA proposed to: (1) remove the current restriction in the SMCL rule which prohibits the addition of supplemental information to the prescribed notice for violation of the SMCL; and (2) limit the distribution requirements for the notice of an SMCL violation in § 143.5(b) to exceedances of the SMCL for fluoride which do not exceed the MCL for fluoride. The April 6, 1987 proposal noted that EPA was proposing changes to the fluoride provisions only to make them consistent with the SDWA amendments; the proposed changes for fluoride were the minimum necessary to make them consistent with the SDWA amendments. Therefore, the notice did not repropose or request comment on any other aspect of the fluoride regulations other than the changes required for consistency. Accordingly, EPA is not responding to comments on the other previously promulgated fluoride requirements in this rulemaking; they were addressed in the April 2, 1986 rulemaking.

Based on an evaluation of the comments received, no changes to the proposed revisions to the secondary regulations for fluoride have been made in this final rule.

C. Public Notification Requirements for Lead

EPA proposed in the April 6, 1987 **Federal Register** notice to establish a new section in Subpart D, § 141.34 Public Notice Requirements Pertaining to Lead, in response to section 1417(a)(2) of the SDWA which requires public notification of lead contamination. Comments on this proposal were numerous and several significant changes have been made as a result. This notice promulgates final regulations under § 141.34 specifying the manner and form of the public notification for lead.

1. Applicability of the Notification Requirement

Section 1417(a)(2) of the Act requires that all public water systems identify and provide notice to persons that may be affected by lead contamination of their drinking water where such contamination results from (1) the lead content in the construction materials of the system, and/or (2) corrosivity of the water supply sufficient to cause leaching of lead. Section 1417 requires public notice for lead even if there is no violation of the drinking water standard (i.e., MCL) for lead. Separate notice for any violation of the lead MCL is also required; the general public notification requirements found at 40 CFR 141.32 would apply to this latter notice.

In the April 6, 1987 notice, EPA proposed that only community water systems be required to give public notice for lead. EPA also asked for comment on an option that would require non-transient non-community water systems (e.g., schools factories, daycare centers) to give the lead notice as well. These systems serve the same users over long periods of time, so the chronic health risks to users would be similar to the risks to residential populations. Under this option, non-transient non-community water systems would be subject to the same requirements as community water systems, except that these systems would substitute posting for newspaper and direct mail notice, and the notice to new billing units wold not be required. More than half of the comments received on this option supported the inclusion of non-transient non-community water systems, citing the statutory language and the potential health risks from these systems for support. Other commenters expressed concern about the availability of data to prepare the notice and various administrative problems in implementation.

As described earlier, subsequent to the April 6, 1987 proposal, EPA promulgated a definition of non-transient non-community water systems as part of the final NPDWRs for eight VOCs. The NPDWRs for the eight VOCs apply to these systems. EPA intends to apply future NPDWRs to these systems as well. Therefore, the proposal to subject non-transient non-community water systems to the lead notice requirement is consistent with this policy. Based on this policy, the reasons set out in the proposal, and comments received on the proposal, EPA has decided to broaden the applicability of the lead public notice rule to include non-transient non-community water systems in the final rule.

In the April 6, 1987 notice, EPA proposed that the lead notice would not be required if a community water system demonstrated to the State that either the construction materials in the water system (defined to include the residential and non-residential facilities connected to the water system) were lead free, or, if by taking water samples for lead, the water system could show that its water was noncorrosive to lead-containing materials in the water system and all construction materials containing lead in the water system are at least five years old. EPA stated in the proposal that it believed few community water systems would qualify for this exemption.

Comments on this portion of the proposal were numerous; several major concerns were identified. First, a large number of commenters objected to the inclusion of household plumbing in the definition of water system, arguing that household plumbing is beyond the control of the water system and that the lead content of household plumbing is unknown. EPA has retained this definition in the final rule for purposes of determining who must give public notice because the public notice is intended to inform and educate all consumers about the dangers of lead in drinking water from all sources, including lead solder in household plumbing. In addition, this definition is consistent with the applicability of the lead ban (see section 1417(a)(1) of the Act). The public notice is a requirement to inform the public and does not otherwise alter the liabilities or responsibilities of the public water system.

Second, a number of commenters requested that the Agency specifically define when "corrosivity of the water supply [is] sufficient to cause leaching ot lead." The proposed rule specified that public water systems were to determine corrosivity to lead based on actual water samples. However, all waters are capable of leaching lead to some degree. The rate of leaching depends on many factors, including the type of plumbing materials, amount of lead surface in contact with water, the age of the material, the chemistry and temperature of the water, and the amount of flushing of the plumbing. EPA is currently studying these parameters in the course of developing a revised NPDWR for lead. However, available studies have been unable to correlate any easily measured water quality parameters with lead concentrations at the consumer's tap. These studies also demonstrate that even with optimal treatment there is still a high probability of leaching lead. Therefore, based on current information, EPA has concluded that all community and non-transient non-community water systems should provide the lead public notice unless they can demonstrate to the State that there is no lead-containing material in the water system, including the residential and nonresidential portions of the system. This requirement is reflected on the final rule.

Additional information may become available in the course of developing the monitoring requirements for lead—the revised NPDWR for lead is scheduled for promulgation in mid-1988—that allows a public water system to determine that its water is "non/corrosive" to lead. If so, EPA would consider amending this public notification rule.

Third, a large number of public water system, States, and other commenters suggested that the Agency should allow States to give the lead notice on behalf of public water systems, at least in some cases. EPA agrees that notification by the State may be sometimes appropriate, as long as the State notice on behalf of the water systems contains all the elements listed under § 141.34(c) and (d) (including system-specific information about what each system is doing to mitigate the lead content in drinking water and whether there is any need to serve alternative supplies) and meets the requirements under 141.34(b). See discussion under II.c.3 below.) In order to make State notification a more viable option, the final rule revised the manner of notice from requiring mail and newspaper notice to allowing water systems to give notice either by mail, newspaper, or hand delivery (also, posting is an additional option for non-transient non-community water systems). If a State chooses to give statewide notice of the behalf of the public water systems covered by this rule, the State could, for example, use newspaper advertisements, in newspapers serving the area, that are of sufficient size and location in the newspaper that they would likely attract widespread attention. In addition, the State should use public service announcements, on radios and television serving the area, that are aired at such times and frequency as are necessary to reach the consumers for which the notice is intended.

EPA disagrees with the commenters who stated that the rule should transfer some of the legal responsibility for the lead notice to the States. The statute and legislative history clearly place the responsibility for fulfilling this requirement on the public water system. Thus, while EPA is allowing States to provide the lead notice on behalf of the water system, under the conditions of § 141.34(f), described below, the water system remains legally liable for ensuring the notice takes place.

Fourth, several States and public water systems thought that public notice should be required only where there was a clear indication that the drinking water would potentially have lead concentrations above the maximum contaminant level set by EPA. The commenters suggested that EPA and the State use data collected under the 1980 corrosivity monitoring requirement to determine which systems should be required to give public notice. EPA disagrees with this interpretation of the statutory requirement; it believes that the statute and legislative history require public water systems to give notice to persons that may be affected by lead contamination; the Act clearly requires lead notice even if there is no MCL violation.

Lastly, one commenter asked about the applicability of the lead notice requirements to consecutive systems. EPA expects the owner or operator of a public water system which is subject to the public notification requirements for lead, and which provides water to another community or non-transient non-community water system, to provide one-time notice by letter to the receiving system. The receiving system, in turn, must provide its customers public notice concerning lead in compliance with the lead public notification requirements.

2. Frequency of Notice

Section 1417(b)(2) of the Act states that the public notice requirements for lead "shall apply in all states effective 24 months after the enactment of this section." In the April 6, 1987, notice EPA proposed to codify this provision by requiring the owner or operator of each community water systems to issue the initial notice for lead no later than June 19, 1988. EPA also proposed that each system give notice annually for five years from the initial notice or the effective date of the lead ban, whichever was later. (The lead ban is mandated by sections 1417 (a)(1) and (b)(1)) of the Safe Drinking Water Act.) EPA proposed a five-year span because experience indicates that lead levels are substantially decreased five years after the last application of new lead solder in water supply systems.

Several commenters objected to the proposed requirement for a repeat notice each year for five consecutive years; most thought a single notice was sufficient and that repeat notices would be costly and difficult for the State to enforce. Several commenters thought that repeat notices were unnecessary because of the lead ban and other outreach activities. Two commenters, on the other hand, thought that the notice should be repeated each year until the lead ban was in effect in the community served by the water system. EPA agrees that the five-year repeat notice requirement is probably not generally necessary and that a mandatory five-year notice would be costly to implement. Certainly the statute does not require ongoing notice. In addition, EPA expects to promulgate a revised NPDWR for lead by June, 1988, and to be in effect by December, 1989 (18 months after promulgation). The revised NPDWR will more directly control lead in drinking water. Therefore, EPA has changed the final rule to require a single year notice, to begin on or before June 19, 1988. If the owner or operator chooses to give newspaper notice, such notice is to be given once a month for three consecutive months. The mail and hand delivery options require one-time notice. If a non-transient non-community water system chooses posting, it is to be continuous for three months.

3. Manner of Notice

Section 1417 of the SDWA requires the Administrator to prescribe the manner and form of the public notice for lead. In the April 6, 1987 notice, EPA proposed that notice to the consumer be given by mail delivery (direct mail or with individual water bills) and by newspaper notice.

In the April 6, 1987 proposal, EPA also requested comment on an option to require that public water systems supplement mail notice with hand delivery of notices to individual units or posting at multiple family dwellings, apartment complexes, and other locations where individual consumer may not receive a water bill.

EPA received numerous comments on the manner of notice proposed in the April 6, 1987 notice. Most of the commenters on this aspect of the proposal objected to the requirement for a mail notice, believing that the mail notice was both costly and less effective than other forms of communication (i.e., newspaper, electronic media). Many of these commenters also thought that a mail notice should be tailored to the severity of the problem in the individual water system, with more notices required where a lead problem is known.

EPA agrees that the form of the notice should be tailored to the problems in the individual water system and has decided to make the requirement more flexible. Therefore, the final rule requires that water systems give one notice, using an option of mail notice, newspaper notice, or hand delivery. Posting is an additional option for non-transient non-community water systems. If the water system chooses the newspaper notice, it must give notice once per month for three consecutive months. If posting is chosen by the non-transient non-community water system, it must be continuous for three months. The mail or hand delivery options require single-time notices.

4. Form and Content of Notice

Section 1417(a)(2)(B) of the Act specifically requires that public notices for lead be written in a clear and readily understandable manner. The Act states that notices must include information concerning potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any.

EPA proposed in the April 6, 1987 notice a list of general requirements for the content of lead public notices. In addition to the statutory requirements outlined above, EPA proposed to require that community water systems include specific advice in the notice on how to minimize exposure to water likely to contain high levels of lead. The April 6, 1987 proposal also set out language on the health effects of lead that would be mandatory for all lead notices. The Agency believes that requiring specific language will ensure accurate and consistent toxicological information in every public notice and simplify the preparation of the individual notices. The proposal gave the community water systems the flexibility to draft the remainder of the notice to best reflect the specific circumstances of the individual systems.

EPA received numerous comments on this portion of the proposal. Many commenters asked for more complete guidelines on what specific advice EPA thought they should provide consumers. Several asked for "boilerplate language" or a publication that would meet the requirements to be inserted with the water bill. Three commenters recommended boilerplate language to be included in EPA guidelines. EPA agrees and is developing a sample public notice to be distributed as part of a public notification handbook. The Agency has recently published *Lead and Your Drinking Water*, which also is available for this purpose. Also, many commenters objected to the specific health effects language included in the April 6, 1987 proposal, viewing the proposed language as too technical, confusing, and (in some parts) unnecessarily alarming. EPA agrees with this comment and has revised the mandatory language to be more educational, simple, and objective.

D. Revised State Implementation Requirements

Part 142 contains regulations for implementation and enforcement of the public water programs by States ("primacy requirements"). In the April 6, 1987 notice, EPA proposed to revise § 142.16 State Public Notification Requirements, to require States to adopt regulations at least as stringent as the amended general public notification regulations under 40 CFR 141.32 as a condition of obtaining or retaining primacy. This provision would replace the current State public notice program requirements in § 142.16, which lists the minimum provisions necessary for State assumption of primacy. The regulations currently in § 142.16 are not as stringent as the public notification requirements in § 141.32.

In the April 6, 1987 proposal, EPA also solicited comment on whether State public notification requirements less stringent than the requirements of the proposed § 141.32 would meet the statutory requirements for primacy under section 1413(a)(2), which requires States to have "adequate procedures for the enforcement of State regulations." In the proposal EPA interpreted this requirement to mean that States must adopt provisions "no less stringent" than § 141.32. This proposed change from the current requirements was influenced by two factors: (1) section 1414(c) requires notice for all violations (including monitoring violations) and sets fixed time periods for notice that are much more explicit than the previous provision (the revised provisions of § 141.32 are essentially the minimum necessary to comply with section 1414(c)); and, (2) if States adopted rules less stringent then the revised EPA regulations, § 141.32 would continue in effect (and be the authority EPA would cite in all enforcement actions). This second factor would mean that, in both legal and practical terms, public water systems would have to comply with two sets of regulations.

Comments received on this section were mixed, with three commenters strongly supporting the requirement that States adopt rules that are "no less stringent" than the federal rules and several other commenters requesting greater State flexibility. The latter commenters requested that no change be made in the current primacy requirement under § 142.16 which, as noted earlier, allows a State to adopt public notification requirements that are less stringent than the federal rules. EPA agrees with these commenters that requiring public notification rules at least as stringent as the federal regulation would require changes in many State programs. In particular, States would have to adopt rules to require public notice for monitoring violations, which currently is not required under § 142.16.

After considering all the comments, EPA has decided to promulgate the basic primacy requirement as proposed. States will be required to adopt regulations no less stringent than the revised § 141.32. To respond to State concerns that adoption of § 141.32 would remove the flexibility the States now have to tailor the notice to the most serious problems (and, in turn, avoid notice for trivial or minor problems), EPA has revised the proposal to build greater flexibility in the public notification rule itself (§ 141.32). Subject to EPA review and approval, the final rule gives States broader discretion to specify the frequency of notice for minor Tier 2 monitoring violations (see Section II.A.1, above).

III. Effective Dates

EPA proposed that the general public notice requirements under 40 CFR 141.32 and the public notice requirements pertaining to lead under 40 CFR 141.34 become effective 30 days after promulgation. Commenters on this proposal stated that the effective date of 30 days after promulgation for the general public notice requirement did not consider the time required for States to revise their current primacy programs to adopt the new public notification requirements. Virtually all States have been delegated primary enforcement authority, or "primacy," under section 1413 of SDWA. EPA agrees with the commenters that the addition of a new requirement effective on the public water systems, without concurrent State adoption of the new provision, would split direct program responsibility between EPA and the State. Further, where States have public notification requirements currently in effect, the addition of the new federal rules would mean that public water systems would follow two sets of rules.

Some commenters suggested that a deadline of 18 months after promulgation would provide adequate time for States to make the necessary regulatory revisions. One commenter indicated that "clustering" of deadlines for adoption of various drinking water rules would be desirable in order to facilitate the interaction of State drinking water programs and their legislatures. In response to the concerns raised above, EPA has revised the effective date for the new requirements under 40 CFR 141.32 to 18 months after promulgation. (The other new sections retain the 30-day effective date as proposed.) The shift to an 18-month effective date for the new § 141.32 is consistent with the effective date required by statute for NPDWRs (section 1412(b)(10)) and will give States ample opportunity to adopt a program revision before the Federal provisions become effective on the public water systems. The current public notification requirements (which are presently in § 141.32) have been moved to § 141.36, and will remain in effect during the next 18 months.

The effective date for the public notice requirements pertaining to lead under 40 CFR 141.34 remains as proposed as 30 days after promulgation. The Agency believes prompt implementation is necessary in order to meet the June 19, 1988, statutory date for enforcement of the public notification requirements for lead.

IV. Executive Order 12291

Executive Order 12291 requires each Federal agency to determine if a regulation is a "major" rule as defined by the Order and, "to the extent permitted by law," to prepare and consider a Regulatory Impact Analysis (RIA) in connection with every major rule. This action is not a "major" regulatory action as defined by the executive order. Therefore, EPA has not prepared an RIA. This regulation has been reviewed by the Office of Management and Budget (OMB) as required by Executive Order 12291.

V. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2040–0090.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA to explicitly consider the effect of regulations on small entities. If there is a substantial effect on a substantial number of small systems, the Agency must seek means to minimize the effects. Such action is not required, however, when the head of an Agency certifies that a proposed rule will not have a significant economic impact on a substantial number of small entities.

In the April 6, 1987 proposed rule, EPA explained its assessment that the economic impact on the small public water systems resulting from implementation of the regulation is expected to be negligible. Based on this assessment, I certified that the proposed rule, if promulgated, would not have a significant impact on a substantial number of small entities. EPA sought comment on this certification and the submission of other additional information related to the potential impact of these proposed rules on small entities.

Based on the comments received and consideration of the changes made in the proposed rule, I certify that this final rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Parts 141, 142, and 143

Administrative practice and procedure, Chemicals, Radiation protection, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Dated: October 13, 1987.

Lee M. Thomas,

Administrator.

For the reasons set forth in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 141—[AMENDED]

1. The authority for Part 141 is revised to read as follows:

Authority: 42 U.S.C. 300g–1, 300g–3, 300g–6, 300j–4, and 300j–9.

2. Part 141 is amended by redesignating § 141.32 as § 141.36 and adding an introductory paragraph to read as follows:

§ 141.36 Public notification.

The requirements in this section apply until April 28, 1989. After April 28, 1989 the requirements of § 141.32 will apply.

*   *   *   *   *

3. Part 141 is amended by adding a new § 141.32 to read as follows:

§ 141.32 Public notification.

The requirements in this section are effective April 28, 1989. The requirements of § 141.36 apply until April 28, 1989.

(a) *Maximum contaminant level (MCL), treatment technique, and variance and exemption schedule violations.* The owner or operator of a public water system which fails to comply with an applicable MCL or treatment technique established by this part or which fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, shall notify persons served by the system as follows:

(1) Except as provided in paragraph (a)(3) of this section, the owner or operator of a public water system must give notice:

(i) 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. If the area served by a public water 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

(ii) By mail delivery (by direct mail or with the water bill), or by hand delivery, not later than 45 days after the violation or failure. The State may waive mail or hand 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 State must make the waiver in writing and within the 45-day period; and

(iii) For violations of the MCLs of contaminants that may pose an acute risk to human health, by furnishing a copy of the notice to the radio and television stations serving the area served by the public water system as soon as possible but in no case later than 72 hours after the violation. The following violations are acute violations:

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

(B) Violation of the MCL for nitrate as defined in § 141.11(b) and determined according to § 141.23(d).

(C) [Reserved].

(2) Except as provided in paragraph (a)(3) of this section, following the initial notice given under paragraph (a)(1) of this section, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation or failure exists.

(3) (i) In lieu of the requirements of paragraph (a)(1)(i) of this section, 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 give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(ii) In lieu of the requirements of paragraphs (a) (1) and (2) of this section, the owner or operator of a non-community water system may give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(b) *Other violations, variances, exemptions.* The owner or operator of a public water system which fails to perform monitoring required by section 1445(a) of the Act (including monitoring required by the National Primary Drinking Water Regulations (NPDWRs) of this part), fails to comply with a testing procedure established by this part, is subject to a variance granted under section 1415(a)(1)(A) or 1415(a)(2) of the Act, or is subject to an exemption under section 1416 of the Act, shall notify persons served by the system as follows:

(1) Except as provided in paragraph (b)(3) or (b)(4) of this section, the owner or operator of a public water system must give notice within three months of the violation or granting of a variance or exemption by publication in a daily newspaper of general circulation in the area served by the system. If the area served by a public water 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.

(2) Except as provided in paragraph (b)(3) or (b)(4) of this section, following the initial notice given under paragraph (b)(1) of this section, the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation exists. Repeat notice of the existence of a variance or exemption must be given every three months for as long as the variance or exemption remains in effect.

(3) (i) In lieu of the requirements of paragraphs (b)(1) and (b)(2) of this section, 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 give notice, within three months of the violation or granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places with the area served by the system. Posting must continue for as long as the violation exists or a variance or exemption remains in effects. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(ii) In lieu of the requirements of paragraphs (b)(1) and (b)(2) of this section, the owner or operator of a non-community water system may give notice, within three months of the violation or the granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(4) In lieu of the requirements of paragraphs (b)(1), (b)(2), and (b)(3) of this section, the owner or operator of a public water system, at the discretion of the State, may provide less frequent notice for minor monitoring violations as defined by the State, if EPA has approved the State's application for a program revision under § 142.16. Notice of such violations must be given no less frequently than annually.

(c) *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, or any treatment technique requirement, or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

(d) *General content of public notice.* Each notice required by this section 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 such 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, 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 system as a source of additional information concerning the notice. Where appropriate, the notice shall be multi-lingual.

(e) *Mandatory health effects language.* When providing the information on potential adverse health effects required by paragraph (d) of this section in notices of violations of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of exemptions or variances, or notices of failure to comply with a variance or exemption schedule, the owner or operator of a public water system shall include the language specified below for each contaminant. (If language for a particular contaminant is not specified below at the time notice is required, this paragraph does not apply.)

(1) *Trichloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal cleaning and dry cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth the enforceable drinking water standard for trichloroethylene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(2) *Carbon tetrachloride.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of of time. EPA has set the enforceable drinking water standard for carbon tetrachloride at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(3) *1,2–Dichloroethane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2–dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oils, waxes, and resins. It generally gets into drinking water from improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,2–dichloroethane at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(4) *Vinyl chloride.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for vinyl chloride at 0.002 part per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(5) *Benzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is a health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline. Drinking water contamination generally results from leaking undergound gasoline and petroleum tanks or improper waste disposal. This chemical has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high levels over their lifetimes. Chemicals that cause increased risk of cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for benzene at 0.005 parts per million (ppm) to reduce the risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(6) *1,1–Dichloroethylene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1-dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1–dichloroethylene at 0.007 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(7) *Para-dichlorobenzene.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that para-dichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizers, moth balls, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes. Chemicals which cause adverse effects in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for para-dichlorobenzene at 0.075 parts per million (ppm) to reduce the risk of these adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(8) *1,1,1-Trichloroethane.* The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that the 1,1,1-trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemical has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemical during their working careers also suffered damage to the liver, nervous system, and

circulatory system. Chemicals which cause adverse effects among exposed industrial workers and in laboratory animals also may cause adverse health effects in humans who are exposed at lower levels over long periods of time. EPA has set the enforceable drinking water standard for 1,1,1-trichloroethane at 0.2 parts per million (ppm) to protect against the risk of these adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(9) *Fluoride.*

[Note.—EPA is not specifying language that must be included in a public notice for a violation of the fluoride maximum contaminant level in this section because § 143.5 of this part includes the necessary information. See paragraph (f) of this section.]

(f) *Public notices for fluoride.* Notice of violations of the maximum contaminant level for fluoride, notices of variances and exemptions from the maximum contaminant level for fluoride, and notices of failure to comply with variance and exemption schedules for the maximum contaminant level for fluoride shall consist of the public notice prescribed in § 143.5(b), plus a description of any steps which the system is taking to come into compliance.

(g) *Public notification by the State.* The State may give notice to the public required by this section on behalf of the owner or operator of the public water system if the State complies with the requirements of this section. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this section are met.

4. Subpart D is amended by adding a new § 141.34 to read as follows:

§ 141.34 Public notice requirements pertaining to lead.

(a) *Applicability of public notice requirement.* (1) Except as provided in paragraph (a)(2) of this section, by June 19, 1988, the owner or operator of each community water system and each non-transient, non-community water system shall issue notice to persons served by the system that may be affected by lead contamination of their drinking water. The State may require subsequent notices. The owner or operator shall provide notice under this section even if there is no violation of the national primary drinking water regulation for lead.

(2) Notice under paragraph (a)(1) of this section is not required if the system demonstrates to the State that the water system, including the residential and non-residential portions connected to the water system, are lead free. For the purposes of this paragraph, the term "lead free" when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

(b) *Manner of notice.* Notice shall be given to persons served by the system either by (1) three newspaper notices (one for each of three consecutive months and the first no later than June 19, 1988); or (2) once by mail notice with the water bill or in a separate mailing by June 19, 1988; or (3) once by hand delivery by June 19, 1988. For non-transient non-community water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and start no later than June 19, 1988, and continue for three months.

(c) *General content of notice.* (1) Notices issued under this section shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, any steps the water system is taking to mitigate lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in paragraph (d) of this section in the notice will be sufficient to explain potential adverse health effects.

(2) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

[Note (Optional Information): Each notice should advise persons served by the system to use only the cold water faucet for drinking and for use in cooking or preparing baby formula, and to run the water until it gets as cold as it is going to get before each use. If there has recenlty been major water use in the household, such as showering or bathing, flushing toilets, or doing laundry with cold water, flushing the pipes should take 5 to 30 seconds; if not, flushing the pipes could take as long as several minutes. Each notice should also advise persons served by the system to check to see if lead pipes, solder, or flux have been used in plumbing that provides tap water and to ensure that new plumbing and plumbing repairs use lead-free materials.

The only way to be sure of the amount of lead in the household water is to have the water tested by a competent laboratory. Testing is especially important to apartment dwellers because flushing may not be effective in high-rise buildings that have lead-soldered central piping. As appropriate, the notice should provide information on testing.]

(d) *Mandatory health effects information.* When providing the information in public notices required under paragraph (c) of this section on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower this standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

• if your home or water system has lead pipes, or

• if your home has copper pipes with lead solder, and

—if the home is less than five years old, or

—if you have soft or acidic water, or

—if water sits in the pipes for several hours."

(e) *Notice by the State.* The State may give notice to the public required by this section on behalf of the owner or operator of the water system if the State meets the requirements of paragraph (b) and the notice contains all the information specified in paragraphs (c) and (d) of this section. However, the owner or operator of the water system remains legally responsible for ensuring that the requirements of this section are met.

(f) *Enforcement by the State.* All States shall enforce the requirements of this section by June 19, 1988, as required by section 1417(b)(2) of the Act. If the Administrator determines that a State is not enforcing these requirements, the Administrator may withhold up to five percent of the State program grant fund under section 1443(a) of the Act.

PART 142—[AMENDED]

1. The authority citation for Part 142 is revised to read as follows:

Authority: 42 U.S.C. §§ 330g-2, 300g-3, 300g-4., 300g-5, 300g-6, 300j-4, and 300j-9.

2. Section 142.10 is amended by revising paragraph (b)(6)(v) to read as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(b) * * *

(6) * * *

(v) Authority to require public water systems to give public notice that are no less stringent than the EPA requirements in §§ 142.32 and 142.16(a).

* * * * *

3. Section 142.16 is revised to read as follows:

§ 142.16 Special primacy requirements.

(a) *State public notification requirements.* If a State exercises the option specified in § 142.32(b)(4) to authorize less frequent notice for minor monitoring violations, it must adopt a program revision enforceable under State authorities which promulgates rules specifying either: (1) which monitoring violations are minor and the frequency of public notification for such violations; or (2) by establishing criteria for determining which monitoring violations are minor and the frequency of public notification.

PART 143—[AMENDED]

1. The authority citation for Part 143 continues to read as follows:

Authority: 42 U.S.C. 330g-1(c), 300j-4, and 300j-9.

2. In § 143.5, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

§ 143.5 Compliance with secondary maximum contaminant level and public notification for fluoride.

(a) Community water systems, as defined in 40 CFR 141.2(e)(i) of this title, that exceed the secondary maximum contaminant level for fluoride as determined by the last single sample taken in accordance with the requirements of § 141.23 of this title or any equivalent State law, but do not exceed the maximum contaminant level for fluoride as specified by § 141.62 of this title or any equivalent State law, shall provide the notice prescribed in paragraph (b) of all billing units annually, all new billing units at the time service begins, and the State public health officer.

(b) The notice required by paragraph (a) shall contain the following language including the language necessary to replace the superscripts:

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