

Part XII
CONSUMER CONFIDENCE REPORTS

§ 1201 PURPOSE

This part establishes the minimum requirements for the content of annual reports, called "Consumer Confidence Reports," that Community Water Systems (CWSs) must deliver to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. Appendix F provides suggested value conversions, regulated contaminants and language for preparing Consumer Confidence Reports. References in this part to section numbers are to the NNPDWR, unless otherwise indicated.

§ 1202 APPLICABILITY

- A. Notwithstanding the provisions of §107, this part applies only to CWSs.
- B. For the purposes of this part, customers are defined as billing units or service connection to which water is delivered by a community water system.
- C. For the purposes of this part, detected means: At or above the levels prescribed by § 405 (C) for inorganic contaminants, at or above the levels prescribed by § 409 (F) for the contaminants listed in § 204 (A) (1), at or above the levels prescribed by § 410 (C) (2) for the contaminants listed in § 204 (A) (2), at or above the levels prescribed by Appendix E-1101-E (B) (2) (d) for the contaminants or contaminant groups listed in §207, and at or above the levels prescribed by § 411 (B) for radioactive contaminants.

§ 1203 EFFECTIVE DATES

- A. The regulations in this part shall take effect upon approval by the Navajo Nation Resources Committee.
- B. Each existing CWS must deliver its first report pursuant to these regulations by July 1, 2003, and subsequent reports by July 1 annually thereafter. The first report must contain data collected during or prior to calendar year 2003 as prescribed in § 1204(D) (3). Each report thereafter must contain data collected during or prior to the previous calendar year.
- C. A new CWS must deliver its first report by July 1 of the year after its first full calendar year in operation and annually thereafter.
- D. A CWS that sells water to another CWS must deliver the applicable information required in § 1204 to the consecutive system:
 - 1. no later than April 1, 2003, and by April 1 annually thereafter; or
 - 2. on a date mutually agreed upon by the seller and the purchaser, and specifically included in a contract between the parties.

§ 1204 CONTENTS OF THE REPORTS

- A. Each CWS must provide to its customers an annual report that contains the information specified in this section and § 1205.
- B. Information on the source of the water delivered.
 - 1. Each report must identify the source(s) of the water delivered by the CWS by providing information on:
 - a. The type of the water source: e.g., surface water, ground water; and
 - b. The commonly used name (if any) and location of the body (or bodies) of water.
 - 2. If a source water assessment has been completed, the report must notify consumers of the availability of this information and the means to obtain it. In addition, systems are encouraged to highlight in the report significant sources of contamination in the source water area if they have readily available information. Where a system has received a source water assessment from the PWSSP, the report must include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the PWSSP or written by the operator.
- C. Definitions.
 - 1. Each report must include the following definitions:

- a. Maximum Contaminant Level Goal or MCLG: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.
 - b. Maximum Contaminant Level or MCL: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.
2. A report for a CWS operating under a variance or an exemption issued under §§ 601, 602 or 603 of the Navajo Nation Safe Drinking Water Act must include the following definition: Variances and Exemptions: PWSSP or EPA permission not to meet a MCL or a treatment technique under certain conditions.
 3. A report that contains data on contaminants that EPA regulates using any of the following terms must include the applicable definitions:
 - a. Treatment Technique: A required process intended to reduce the level of a contaminant in drinking water.
 - b. Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.
 - c. Maximum residual disinfectant level goal or MRDLG: The level of a drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.
 - d. Maximum residual disinfectant level or MRDL: The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

D. Information on Detected Contaminants.

1. This subsection specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring (except Cryptosporidium). It applies to:
 - a. Contaminants subject to a MCL, action level, maximum residual disinfectant level, or treatment technique (regulated contaminants).
2. The data relating to these contaminants must be displayed in one table or in several adjacent tables. Any additional monitoring results which a CWS chooses to include in its report must be displayed separately.
3. The data must be derived from data collected to comply with EPA and PWSSP monitoring and analytical requirements during calendar year 2002 for the first report and subsequent calendar years thereafter, except that:
 - a. Where a system is allowed to monitor for regulated contaminants less often than once a year, the table(s) must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations. No data older than 5 years need be included.
4. For detected regulated contaminants (listed in Appendix F to these regulations), the table(s) must contain:
 - a. The MCL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in Appendix F to these regulations);
 - b. The MCLG for that contaminant expressed in the same units as the MCL;
 - c. If there is no MCL for a detected contaminant, the table must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique and/or action level, as appropriate, specified in paragraph(C) (3) of this section;
 - d. For contaminants subject to a MCL, except turbidity and total coliforms, the highest contaminant level used to determine compliance with a NNPDWR and the range of detected levels, as follows:

- i. When compliance with the MCL is determined annually or less frequently: the highest detected level at any sampling point and the range of detected levels expressed in the same units as the MCL.
- ii. When compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points expressed in the same units as the MCL. For the MCLs for TTHM and HAA5 in §207(B)(2), systems must include the highest locational running annual average for TTHM and HAA5 and the range of individual sample results for all sampling points expressed in the same units as the MCL. If more than one location exceeds the TTHM or HAA5 MCL, the systems must include the locational running annual averages for all locations that exceed the MCL.
- iii. When compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection expressed in the same units as the MCL. The system is required to include individual sample results for the IDSE conducted under Part XXII of these regulations when determining the range of TTHM and HAA5 results to be reported in the annual consumer confidence report for the calendar year that the IDSE samples were taken.

Note to paragraph (D)(4)(d): When rounding of results to determine compliance with the MCL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in Appendix F of these regulations.

- e. For turbidity.
 - i. When it is reported pursuant to § 206: the highest average monthly value.
 - ii. When it is reported pursuant to the requirements of § 803: the highest monthly value. The report should include an explanation of the reasons for measuring turbidity.
 - iii. When it is reported pursuant to § 805, § 1305 or §2106(B): the highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in § 805, or § 1305 or §2106(B) for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity.
- f. For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level.
- g. For total coliform:
 - i. The highest monthly number of positive samples for systems collecting fewer than 40 samples per month; or
 - ii. The highest monthly percentage of positive samples for systems collecting at least 40 samples per month.
- h. For fecal coliform: the total number of positive samples.
 - i. The likely source(s) of detected contaminants to the best of the operator's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the operator. If the operator lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in Appendix F that is most applicable to the system.
- 5. If a CWS distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table should contain a separate column for each service area and the report should identify each separate distribution system. Alternatively, systems could produce separate reports tailored to include data for each service area.
- 6. The table(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques and the report must contain a clear and readily understandable explanation of the violation including: the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system must use the relevant language of Appendix F.

7. For detected unregulated contaminants for which monitoring is required (except *Cryptosporidium*), the table(s) must contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reasons for monitoring for unregulated contaminants.

E. Information on *Cryptosporidium*, radon, and other contaminants.

1. If the system has performed any monitoring for *Cryptosporidium*, including monitoring performed to satisfy the requirements of 40 CFR § 141.143, which indicates that *Cryptosporidium* may be present in the source water or the finished water, the report must include:
 - a. A summary of the results of the monitoring; and
 - b. An explanation of the significance of the results.
2. If the system has performed any monitoring for radon which indicates that radon may be present in the finished water, the report must include:
 - a. The results of the monitoring; and
 - b. An explanation of the significance of the results.
3. If the system has performed additional monitoring which indicates the presence of other contaminants in the finished water, NNEPA strongly encourages systems to report any results which may indicate a health concern. To determine if results may indicate a health concern, NNEPA recommends that systems find out if EPA or NNEPA has proposed a NPDWR or a NNPDR, respectively, or issued a health advisory for that contaminant by calling the PWSSP at (928) 871-7755 and/or the EPA Safe Drinking Water hotline at (800) 426-4791. NNEPA considers detects above a proposed MCL or health advisory level to indicate possible health concerns. For such contaminants, NNEPA recommends that the report include:
 - a. The results of the monitoring; and
 - b. An explanation of the significance of the results noting the existence of a health advisory or a proposed regulation.

F. Compliance with NNPDR. In addition to the requirements of paragraph (D) (6), the report must note any violation that occurred during the year covered by the report of a requirement listed below, and include a clear and readily understandable explanation of the violation, any potential adverse health effects, and the steps the system has taken to correct the violation.

1. Monitoring and reporting of compliance data;
2. Filtration and disinfection prescribed by Part VIII-General Requirements for Surface Water Treatment. For systems which have failed to install adequate filtration or disinfection equipment or processes, or have had a failure of such equipment or processes which constitutes a violation, the report must include the following language as part of the explanation of potential adverse health effects: "Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches."
3. Lead and copper control requirements prescribed by Part VII (Lead and Copper). For systems that fail to take one or more actions prescribed by §§ 704(B), 705, 706, 707, or 708, the report must include the applicable language of Appendix F for lead, copper, or both.
4. Treatment techniques for Acrylamide and Epichlorohydrin prescribed by Part X-Treatment Techniques. For systems that violate the requirements of Part X, the report must include the relevant language from Appendix F.
5. Recordkeeping of compliance data.
6. Violation of the terms of a variance, an exemption, or an administrative or judicial order.

G. Variances and Exemptions. If a system is operating under the terms of a variance or an exemption issued under §§ 601, 602 or 603 of Navajo Nation Safe Drinking Water Act, the report must contain:

1. An explanation of the reasons for the variance or exemption;

2. The date on which the variance or exemption was issued;
3. A brief status report on the steps the system is taking to install treatment, find alternative sources of water, or otherwise comply with the terms and schedules of the variance or exemption; and
4. A notice of any opportunity for public input in the review, or renewal, of the variance or exemption.

H. Additional information

1. The report must contain a brief explanation regarding contaminants that may reasonably be expected to be found in drinking water, including bottled water. This explanation may include the language of paragraphs (H)(1)(a) through (c) or systems may use their own comparable language. The report also must include the language of paragraph (H)(1)(d) of this section.
 - a. The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.
 - b. Contaminants that may be present in source water include:
 - i. Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.
 - ii. Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.
 - iii. Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.
 - iv. Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.
 - v. Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.
 - c. In order to ensure that tap water is safe to drink, NNEPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. Food and Drug Administration (FDA) regulations establish limits for contaminants in bottled water which must provide the same protection for public health.
 - d. Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the PWSSP at (928) 871-7755.
2. The report must include the telephone number of the owner, operator, or designee of the CWS as a source of additional information concerning the report.
3. The report must contain information in the Navajo language regarding the importance of the report or contain a telephone number or address and a statement in Navajo that residents may contact the system at that number or address to obtain a translated copy of the report or assistance with a Navajo interpretation of the report.
4. The report must include information (e.g., time and place of regularly scheduled board or chapter meetings) about opportunities for public participation in decisions that may affect the quality of the water.
5. The systems may include such additional information as they deem necessary for public education consistent with, and not detracting from, the purpose of the report.

§ 1205 REQUIRED ADDITIONAL HEALTH INFORMATION

A. All reports must prominently display the following language:

"Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791)."

B. Ending in the report due by July 1, 2001, a system which detects arsenic at levels above 0.025 mg/L, but below the 0.05 mg/L, and beginning in the report due by July 1, 2002, a system that detects arsenic above 0.005 mg/L and up to and including 0.010 mg/L:

1. Must include in its report a short informational statement about arsenic, using language such as: "While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems."
2. May write its own educational statement, but only in consultation with the Director.

C. A system that detects nitrate at levels above 5 mg/L, but below the MCL:

1. Must include a short informational statement about the impacts of nitrate on children, using language such as: "Nitrate in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider."
2. May write its own educational statement, but only in consultation with the Director.

D. Systems that detect lead above the action level in more than 5%, and up to and including 10%, of homes sampled:

1. Must include a short informational statement about the special impact of lead on children, using language such as: "Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline (800-426-4791) or the PWSSP at (928) 871-7755."
2. May write its own educational statement, but only in consultation with the Director.

E. CWSs that detect TTHM above 0.080 mg/L, but below the MCL in § 210, as an annual average, monitored and calculated under the provisions of § 413, must include health effects language for TTHMs prescribed by Appendix F.

F. Beginning in the report due by July 1, 2002 and ending January 22, 2006, a CWS that detects arsenic above 0.010 mg/L and up to and including 0.05

mg/L must include the arsenic health effects language prescribed by Appendix F.

§ 1206 REPORT DELIVERY AND RECORDKEEPING

A. Except as provided in subsection (G) of this section, each CWS must mail or otherwise directly deliver one copy of the report to each customer.

B. The system must make a good faith effort to reach consumers who do not get water bills, using means recommended by the Director. NNEPA expects that an adequate good faith effort will be tailored to the consumers who are served by the system but are not bill-paying customers, such as renters or workers. A good faith effort to reach consumers would include a mix of methods appropriate to the particular system, such as: Posting the reports on the Internet; mailing to postal patrons; advertising the availability of the report in the news media; publication in a local newspaper; posting in public places such as cafeterias or lunch rooms of public buildings; delivery of multiple copies for distribution by single-biller customers such as apartment buildings or large private employers; delivery to community, including chapter, organizations.

- C. No later than the date the system is required to distribute the report to its customers, each CWS must mail a copy of the report to the Director, followed within 3 months by a certification that the report has been distributed to customers, and that the information is correct and consistent with the compliance monitoring data previously submitted to the Director.
- D. No later than the date the system is required to distribute the report to its customers, each CWS must deliver the report to any other agency or clearinghouse identified by the Director.
- E. Each CWS must make its reports available to the public upon request.
- F. The Director may waive the requirement of subsection (A) of this section for CWSs serving fewer than 10,000 persons. Written requests to the Director must be made and the determination will be sent to the CWS owner/operator.
 - 1. Such systems must:
 - a. Publish the reports in one or more local newspapers serving the area in which the system is located;
 - b. Inform the customers that the reports will not be mailed, either in the newspapers in which the reports are published or by other means approved by the Director; and
 - c. Make the reports available to the public upon request.
 - 2. Systems serving 500 or fewer persons may forego the requirements of paragraphs (F)(1)(a) and (b) of this section if they provide notice at least once per year to their customers by mail, door-to-door delivery or by posting in an appropriate location that the report is available upon request.
- G. Any system subject to this part must retain copies of its Consumer Confidence Report for no fewer than 3 years.