



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

Mr. Peter Jenkins
Public Employees for Environmental Responsibility
962 Bayne Ave, Suite 610
Silver Spring, Maryland 20910

Re: Petition for Rulemaking Governing Parental and Guardian Notification

Dear Mr. Jenkins:

Thank you for your letter dated February 2, 2021, to the Administrator of the U.S. Environmental Protection Agency (EPA) regarding Public Employees for Environmental Responsibility's December 19, 2017, petition to amend the Public Notification (PN) rule. The EPA appreciates the concerns regarding public notice identified in your petition. Pursuant to Section 1414(c)(1)(A) of the Safe Drinking Water Act (SDWA), public water systems are required to provide notification to "the persons served by the water system" of violations of National Primary Drinking Water Regulations (NPDWRs) and in other situations. EPA recognizes that its implementing regulations at 40 C.F.R. part 141, subpart Q, do not require public notification to be provided to persons not directly served by a water system, which may include parents or guardians of children and elderly adults served by the water system.

After careful consideration of your petition, at this time the Agency has determined to not initiate a rulemaking to make your suggested amendments to the PN rule. EPA takes notification of the public very seriously, and the Agency shares your concern about the need to ensure that interested members of the public, including people that would not normally receive "direct delivery" of PN, are provided with timely information about their drinking water or that of their children or wards. As you note in your petition, the existing PN rule requires water systems to include standard language in public notices to encourage notice recipients to further distribute the PN to all consumers, including those who may not have received the notice directly (for example, people in apartments, nursing homes, schools, and businesses) [40 C.F.R. § 141.205(a)(10) and 141.205(d)(3)]. The standard language identifies posting in a public place as one option for further distributing the notice, which could serve to also notify parents or guardians of children and elderly or vulnerable adults served by the water system. The Agency strives to continue improving notification to consumers through updated regulations, guidance, training, and other resources. EPA is currently in the process of updating existing guidance documents, including the State Implementation Guide and Handbooks for the PN rule, which provide information on delivery methods. In addition, EPA intends to explore compiling supplemental delivery methods and best practices to promote wider distribution of PNs to address the concerns in your petition. As a result, we do not believe that your suggested rule changes are warranted at this time.

Initiating the rule changes you request would require redirecting substantial resources that are currently devoted to priority matters within EPA's Office of Water. Prior to initiating a rulemaking to require water systems to provide notice to persons that are not served by the water system, EPA would need to study the problem to determine the scope and public health benefits for such a rule, what type of notice would be most effective to fill the need, how water systems could provide that notice to persons that are neither customers or consumers, and

how to craft a rule that targets the needed notice in a way that is implementable by water systems and primacy agencies. EPA would also need to investigate whether it has adequate statutory authority for such a rule. Given the potential significant analysis and outreach involved in such efforts, it is difficult to justify prioritizing such a rulemaking effort relative to the important tasks already underway in the Office of Water.

More specifically, the Office of Water is currently engaged in multiple other highly important priority drinking water-related matters. These priorities include, but are not limited to, the review of the Lead and Copper Rule Revisions, followed by either implementation or revision of that rule; the management of grant programs authorized in the 2016 and 2018 amendments to SDWA, including Lead Testing in School and Child Care Program Drinking Water Grant; the development of NPDWR for Perfluorooctanoic Acid and Perfluorooctane Sulfonate; development of the Fifth Unregulated Contaminant Monitoring Rule; review and consideration of revisions of the rules regulating microbial and disinfection byproducts; development of the Water System Restructuring Assessment Rule; and revisions to the Consumer Confidence Report (CCR) rule. The CCR rule revisions, required by America's Water Infrastructure Act of 2018, will improve readability, understandability, and clarity of reports that provide drinking water information to consumers, in addition to requiring biannual delivery for larger systems. The development of regulations is resource-intensive; promulgation of even relatively minor rules or targeted rule revisions requires significant staff time and other resources to conduct economic and other supporting analyses, seek input from stakeholders, provide public notice and an opportunity to comment, and complete a record for decision.

Thank you again for your petition. We truly appreciate your interest in improving public notification to protect public health.

Sincerely,

Ronald Bergman

Ronald Bergman
Associate Director, Drinking Water Protection Division
Office of Ground Water and Drinking Water