**Before the Environmental Protection Agency**
WASHINGTON, D.C. 20240

**In Re: Petition for Rulemaking Governing Parental** )
**And Guardian Notification** )

*To the Administrator of the Environmental Protection Agency:*

# Petition for Rulemaking

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## SUMMARY

This petition, filed by Public Employees for Environmental Responsibility (PEER), requests that the Environmental Protection Agency (EPA) promulgate amended regulations governing public notification requirements under the Safe Drinking Water Act (SDWA). Specifically, this petition seeks the following regulatory changes to 40 CFR 141.201(c). This section governs public notice requirements when there are violations of national primary drinking water regulations and in other enumerated situations. 40 C.F.R. § 141.201(a). Subsection (c) now reads:

> **(c)** Who must be notified?
> **(1)** Each public water system must provide public notice to persons served by the water system, in accordance with this subpart. Public water systems that sell or otherwise provide drinking water to other public water systems (i.e., to consecutive systems) are required to give public notice to the owner or operator of the consecutive system; the consecutive system is responsible for providing public notice to the persons it serves.
> **(2)** If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the primacy agency may allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission by the primacy agency for limiting distribution of the notice must be granted in writing.
> **(3)** A copy of the notice must also be sent to the primacy agency, in accordance with the requirements under § 141.31(d).

The requested amendment would add to this section a requirement to notify parents and other interested third parties when the violations or other covered situations involve water supplied to facilities serving children or adults for whom power-of-attorney has been assigned. The amendment would add the following provisions to the section quoted above. After existing subsection (c)(1), new subsections (2) and (3) would be added:

(2) Each public water system shall also provide public notice to:

(i) Parents and other interested third parties. Upon receiving notification or learning of any violation of a national primary drinking water regulation or other listed

situation, any public water system that functions as a school, day care, camp, nursing home, retirement home, group home, assisted living facility, or any such facility that serves minors or adults for whom power-of-attorney has been assigned, the public water system shall provide the public notice to the parents/guardian of any minors or those with power of attorney for an incapacitated adult. Parents of minor children are entitled to notification regardless of whether school is currently in session. For Tier 1 and Tier 2 violations, the public water system shall provide a copy of the full public notice to parents, guardians or those with power of attorney. This may be done by hard copy or electronic version; and

(ii) Prospective residents, customers or clients. Any public water system that maintains a website or social media page shall prominently post all current public notices.

(3) Parents and other interested third parties whose wards are served by a customer of a public water system in violation of national primary drinking water regulations. Upon receiving notification or learning of any national primary drinking water violation, such as an MCL violation, or other listed situation, any school, daycare, nursing home, retirement home, group home, assisted living facility, or any such facility that serves minors or adults for whom power-of-attorney has been assigned, shall provide public notice to the parents/guardian of any minors or those with power of attorney for an incapacitated adult. This requirement may be waived or adjusted if the facility determines all parents or other interested parties have already received notification as customers of the same water system themselves. This waiver would apply, for example, when a small daycare center determines all parents are also customers of the same water system.

The current sections (c)(2) and (c)(3) would become (c)(4) and (c)(5).We also request a sentence be added to subsection (c)(3) (which would become subsection (c)(5)), so that the section would read (new part italicized):

(5) A copy of the notice must also be sent to the primacy agency, in accordance with the requirements under § 141.31(d). *Along with a copy of the public notice, the public water system shall also include a statement detailing how public notice was performed and to whom it was distributed.*

These regulatory amendments are necessary to ensure that parents are fully informed about the quality of the water their children drink, as well as to ensure that vulnerable adult populations are protected from drinking water violations.[1]

[1] The proposed rule is set forth in full in Appendix A.

The SDWA was enacted in 1974 to protect the quality of drinking water in the United States. *Summary of the Safe Drinking Water Act*, United States Environmental Protection Agency, https://www.epa.gov/laws-regulations/summary-safe-drinking-water-act. As part of that effort, Congress imposed a notification requirement in the SDWA. 42 U.S.C. § 300g-3(c)(1) (2016). That requirement was for each "owner or operator of a public water system" to give notice of any failure of the system to comply with the SDWA to the persons served by the system. *Id.*

Furthermore, Congress directed the Administrator of the EPA to develop and promulgate regulations prescribing "the manner, frequency, form, and content for giving notice." 42 U.S.C. § 300g-3(c)(2)(A) (2016). Those regulations were to provide for different frequencies of notice based on how regularly or irregularly these violations occur, and to take into account "the seriousness of any potential adverse health effects that may be involved." 42 U.S.C. § 300g-3(c)(2)(A)(i),(ii) (2016). As is evident from the existing regulation, EPA implemented these statutory directives in part by regulatory direction as to who should be notified and how.

The states may establish alternative requirements as to the form and content of a notice, but the alternative requirements must provide the same type and amount of information as is required for EPA notifications. 42 U.S.C. § 300g-3(c)(2)(B)(i) (2016).

The EPA has the authority to amend its notice regulations to include notice to parents and guardians of individuals in schools, retirement homes, or other such facilities pursuant to the statutory directive to issue regulations prescribing the manner and form of notice. 42 U.S.C. § 300g-3(c)(2)(A) (2016). Moreover, promulgating this rule amendment would further the purpose of informing the public of dangerous drinking water conditions, which makes it an appropriate exercise of the EPA's authority.

This requested rule change applies not only to all types of public water systems, but also to a number of entities that are customers of those systems. The three types of public water systems (PWS) are community, non-transient non-community, and transient non-community. Community PWSs serve primarily a permanent residential population. Non-transient non-community public water systems serve the same people most days, but not in a residential setting. Transient non-community PWSs typically serve different people throughout the year or operating season. Nursing homes and boarding schools with their own wells are examples of community PWSs impacted by this regulation. A school that is a stand-alone public water system is a non-transient non-community system while a summer camp with its own well is a transient non-community PWS; both would be required to notify parents. Circa 1993, EPA involved the Association of State Drinking Water Administrators and others in a "straw option" to address the failure of the drinking water public notice rule to reach parents at school PWSs. Yet follow-through did not occur then, nor was this problem solved when the current public notice rule was promulgated in May 2000. PEER now seeks to address not only this omission affecting parents whose children are served directly by these small PWSs, but also to address the ongoing and critical need for parents who are not served by the same water system as their children's schools or daycares in larger, municipal-type settings. Prospective residents, homebuyers and other customers also have the right to know about violations of the Safe Drinking Water Act prior to becoming consumers.

Furthermore, the current situation demonstrates the necessity of the proposed amendments to the rule. At the end of the second quarter of Federal Fiscal Year 2017, EPA's Safe Drinking Water Information System (SDWIS) lists 7,919 schools and daycares that are stand-alone PWSs, serving a total population of 3,199,913, mostly minors, which have incurred a

total of 207,652 violations of the Safe Drinking Water Act. Available at https://ofmpub.epa.gov/apex/sfdw/f?p=108:21:::NO:RP,RIR::. [2] These stand-alone public water systems are mostly non-transient non-community systems that typically provide water to one building or small area (*i.e.*, a well system for a building that is not connected to municipal water lines) and provide water to the same people at least six months of the year, but not in a residential setting. This is significant, as non-transient non-community systems are not required to test for as many contaminants or conduct testing as often as community systems. The EPA Rule governing parties to be notified of SDWA violations, 40 CFR 141.201(c), however, makes no mention of parental notification in these circumstances, but only requires notice to "persons served by the water system." 40 CFR 141.201(c)(1). We maintain it is self-evident that no meaningful public notification can be performed without inclusion of parents when the water consumer is under 18 years of age.

Additionally the National Center for Education Statistics estimates that 50.7 million children started public school this fall with another 5.2 million attending private schools.[3] While most of these children will be served by the same water system at home and at school, many will not, and therefore notice to those served by the system as required under the existing regulation may not reach the parents of such children. Parents who are not customers of the same water system as the school their child attends need notification. Federal regulations should emulate the requirements put in place by the State of California that require schools and school systems (as well as residential and business property owners) that receive a notice from a public water system to notify school employees, students, and parents if the students are minors, as well as

[2]This listing is likely an underestimate, as at last review it failed to include US territories and protectorates such as Puerto Rico or the Virgin Islands that also fall under the SDWA.
[3] National Center for Education Statistics, *Back to school statistics*, https://nces.ed.gov/fastfacts/display.asp?id=372.

tenants of residential properties and employees of businesses. *See e.g*, California Health and Safety Code Section 116450(g)).

## PETITION FOR RULEMAKING

Public Employees for Environmental Responsibility, pursuant to the Administrative Procedure Act (5 U.S.C. § 553(e)), hereby petitions the EPA to amend its public notification regulations for persons served by public water systems issued pursuant to the Safe Drinking Water Act (SDWA) found at 40 C.F.R. 141.201(c), addressing "Who must be notified?". The Administrative Procedure Act directs that "[E]ach agency (of the Federal Government) shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." 5 U.S.C. § 553(e) (2016).

*Standing to File.* PEER is an IRS 501(c)(3) non-profit organization incorporated under laws of the District of Columbia and headquartered in Silver Spring, MD. PEER advocates for effective, transparent government at all levels and for government action that protects the environment and human health. This includes advocacy for more effective notification rules under the SDWA. As such, PEER is "an interested person" under the Administrative Procedure Act.

## ARGUMENTS IN SUPPORT OF PETITION

### I. CONGRESS AUTHORIZED THE ADMINISTRATOR OF THE EPA TO PROMULGATE REGULATIONS TO IMPLEMENT THE SAFE DRINKING WATER ACT

The Safe Drinking Water Act was signed into law on December 16, 1974. 88 Stat. 1660. The SDWA established that, subject to relatively rare exceptions, every public water system in every state is subject to national primary drinking water regulations. 42 U.S.C. § 300g (2016). A public water system is defined as "a system for the provision to the public of water for human

consumption through pipes," so long as the system has a minimum amount of connections or individuals served. 42 U.S.C. § 300f(4)(A) (2016). The term "primary drinking water regulation" refers to a regulation that applies to a public water system and specifies contaminants that could have an adverse effect on human health. 42 U.S.C. § 300f(1)(A),(B) (2016). The primary drinking water regulation must further stipulate the maximum contaminant level (MCL), 42 U.S.C. § 300f(1)(C) (2016), which is the maximum permissible level of that substance in water that is delivered to any user in a public water system. 42 U.S.C. § 300f(3). The Administrator of the EPA is empowered, and in some cases required, to promulgate these national primary drinking water regulations. *See* 42 U.S.C. 300g-1 (2016).

## II. CONGRESS DIRECTED THE EPA TO REGULATE PUBLIC NOTICE REQUIREMENTS

In addition to the direction to promulgate drinking water standards under the SDWA, Congress has given EPA enforcement responsibilities, including the promulgation of regulations to implement the notice requirements of the Act. *See* 42 U.S.C. § 300g-3(c) (2016).

The SDWA states explicitly that every "owner or operator of a public water system shall give notice…to the persons served by the system" of a failure to comply with an applicable MCL, treatment technique, testing procedure, monitoring requirement, or the terms of a variance. 42 U.S.C. § 300g-3(c)(1)(A)-(B) (2016). The notice requirements also apply to certain unregulated contaminants and exceedances of lead action levels. 42 U.S.C. § 300g-3(c)(1)(C)-(D). The EPA has implemented the Congressional mandate to promulgate a notice regulation, which provides in part:

> Each owner or operator of a public water system (community water systems, non-transient non-community water systems, and transient non-community water systems) must give notice for all violations of national primary drinking water regulations (NPDWR) and for other situations, as listed in Table 1.

40 C.F.R. § 141.201(a) (2016). The regulations require that each "public water system must provide public notice to persons served by the water system, in accordance with this subpart." 40 C.F.R. § 141.201(c)(1) (2016).

The current public notice regulations do not require public water systems or facilities like schools and nursing homes to provide notice to parents or those with power of attorney for disabled adults. Instead, the EPA merely requires public water systems to include in the public notices a request to inform those who drink the water but might not have received notice directly, including people in apartments, nursing homes, schools and businesses. 40 C.F.R. § 141.205(d)(3). That section says "where applicable," the public water system must include in its notice this language:

> Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail. *Id.*

This regulation acknowledges the problem of water consumers in institutions not receiving notice. However, even apart from the fact that the regulation results only in a request ("please share this information") and not a mandatory duty, the regulation does not address the problem raised here. The requested amendments are not directed at notice to the water consumers themselves, but instead at notice to their parents or guardians when they themselves are not competent to understand or respond to the notice.

Current knowledge of the frequency of SDWA violations in small water systems serving minors, as detailed above and below, makes especially apparent the need to remedy this weakness in the current notification regulations. Small water systems, particularly non-transient non-community systems that are not connected to broader municipal water lines and have limited monitoring, are subject to even weaker notification requirements under the current regulation

than are community water systems, and therefore notice is even less likely to reach parents. Transient non-community systems, such as a child's summer camp, bear even less responsibility to notify parents. For example, for Tier 2 and Tier 3 violations, community water systems are required to provide notice by mail or other direct delivery to each customer. 40 C.F.R. 141.203(c)(1); 40 C.F.R. 141.204(c)(1). However, non-community water systems can provide notice merely by posting in locations in the distribution system, regardless of whether or not those notices are actually seen by customers, much less parents. 40 C.F.R. 141.203(c)(2); 40 C.F.R. 141.204(c)(2).

Many states face political pressure not to have more stringent requirements than the federal rule. As a result, many states do not do enough to ensure that parents of schoolchildren and guardians of the elderly or developmentally disabled adults receive notice of MCL violations at their wards' education or care facilities. The EPA Administrator has explicit authority to amend Agency rules to address these issues; in this instance, such action is required to protect public health.

This petition requests a change that will address the deficiencies of the current regime, by mandating notice not just to water users, but to parents and guardians of water users for whom notice would be ineffective. In addition, the requested amendment mandates that upon receipt of a notice of SDWA violations, a facility must inform the parents of its children or other applicable guardians, further insuring that notice will actually reach those responsible for water users who are not competent to protect themselves.

The authority to promulgate the requested regulatory amendments is contained in the statutory requirement for the Administrator to "by regulation…prescribe the manner, frequency, form, and content for giving notice…" 42 U.S.C. § 300g-3(a)(2)(A) (2016). In the exercise of

that authority, the Administrator has prescribed who must be notified and how. 40 C.F.R. § 141.201(c). It is certainly within the Administrator's authority to amend that regulation to insure that notice is given to the persons who can actually understand and act upon the information on behalf of users who are not competent to do so.

## III. THE NATIONAL SITUATION DEMANDS THE PROMULGATION OF A RULE REQUIRING NOTIFICATION OF PARENTS AND GUARDIANS

Some states have already taken steps to address the problem. California, for example, has acted by implementing the following rule:

> Whenever a school or school system, the owner or operator of residential rental property, or the owner or operator of a business property receives a notification from a person operating a public water system under any provision of this section, the school or school system shall notify school employees, students and parents if the students are minors, the owner or operator of a residential rental property shall notify tenants, and the owner or operator of business property shall notify employees of businesses located on the property. CAL. HEALTH & SAFETY § 11645(g) (2016).

However, few states have adopted such a responsible rule, nor are they obligated to do so—the state's regulations must merely meet the minimum standards set forth in the EPA regulations. If a state wishes to have primary enforcement responsibility, it must adopt drinking water regulations that "are no less stringent than the national primary drinking water regulations promulgated by the Administrator." 42 U.S.C. § 300g-2(a)(1) (2016). Specifically for notice, a state may employ the federal regulation, or may establish alternative requirements that pertain to the form and content of the notice. 42 U.S.C. § 300g-3(c)(2)(B)(i)(I),(II) (2016). However, the alternative requirements must have the same type and amount of information as in the EPA regulations.

There are currently 55.9 million children attending primary and secondary schools (both public and private) across the country, and over 3 million of those children are served by stand-alone public water systems in their schools or daycare facilities. Parents of those children would

not be served by the same system and would not be notified of drinking water violations under the current regulations. EPA's Safe Drinking Water Information System (SDWIS) does not present information about nursing homes that are stand-alone public water systems; however, the lack of notification to those with power-of-attorney for nursing home residents adds significantly to the true impact of the present faulty notification requirements.

*Case Study: Columbus, Ohio*

In the absence of a uniform rule, the states have taken a variety of approaches; some have been successful in achieving notification of affected parties, but many have not. For example, the acute MCL violations for nitrate in Columbus, Ohio during 2015 and 2016 demonstrate how the failure to require parental notification in the federal rule affects notification on the state and local level. The Columbus Department of Public Utilities serves a total population of 1,178,322 – the largest in the country to have an acute MCL violation in 2016. There is no more dangerous a violation for a more susceptible population than nitrate: infants who consume water or formula made from water in exceedance of the MCL for nitrate may die. (It also threatens the maternal and fetal health of pregnant women in their third trimester.) Therefore, parental/caregiver notification is of the utmost importance for nitrate exceedances.

In July 2016, the Columbus Department of Public Utilities submitted 18 pages (attached) of public notice documentation to the Ohio Environmental Protection Agency, Division of Drinking and Ground Waters. The records show how, consistent with the current regulations, the water system relied heavily on broadcast and print media to reach those affected while falling short on direct notification, especially for those who might not have been customers themselves but may have had infants in affected day care centers. While these nitrate violations impacted only customers served by one of the city's three water plants (Dublin Road), direct notification

was limited to only the 21 most recently connected customers out of hundreds of thousands affected. While a customer could go to an interactive map, type in an address and see if they had been affected, there was no guarantee that affected parents of infants ever learned of the need to do so through the media. That same interactive map was apparently not tied into a system to reach individual customers via e-mail, text, or an automated phone dialing system. Furthermore, the documentation does not reflect any effort to reach parents commuting from a location outside of the water system's area and dropping an infant at one of the dozens of daycares in the impacted area.

The importance of reaching these commuting parents cannot be overstated. Only a regulatory change such as that proposed here would require that they be notified, since they are not customers of the affected system. Had the federal rule required direct parental notification, these impacted individuals would have been required to be alerted of the unsafe drinking water.

*Case Study: Bradleyville R-I School, Missouri*

While California's notification requirement may provide a model for the rest of the country, other states do not get such high marks. For instance, in Missouri, while the legislature created a safe drinking water commission to write rules necessary to implement the federal Safe Drinking Water Act, MO. REV. STAT. § 640.100 (2016), the legislature did not codify the notification process, but stated that "[n]otification shall be in form and manner prescribed or otherwise approved by the department of natural resources." MO. REV. STAT. § 640.125 (2016). The regulations adopted by the Department of Natural Resources in turn simply adopted the requirements of the SDWA and echoed 40 CFR Part 141 Subpart Q. 10 CSR 60-8.010.

Under federal law, 40 CFR § 141.202(b)(2) requires, for the most serious violations, called Tier 1, that public water system:

….
(2) Initiate consultation with the primacy agency as soon as practical, but no later than 24 hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and
(3) Comply with any additional public notification requirements (including any repeat notices or direction on the duration of the posted notices) that are established as a result of the consultation with the primacy agency. Such requirements may include the timing, form, manner, frequency, and content of repeat notices (if any) and other actions designed to reach all persons served.

Therefore, the primacy agency, typically a state resource agency tasked with enforcement of safe drinking water regulations under 40 CFR 142 Subpart B, plays a role nearly as important as the water system itself in producing an effective public notice – it is crucial in determining the who, what, when and where of public notice. *See* 40 C.F.R. § 141.202(b)(2) (requiring consultation with the primacy agency to determine additional public notice requirements for Tier 1 violations). For Missouri that agency is the Department of Natural Resources (MODNR), a government agency that often found itself enforcing the SDWA both while in violation of it and also while drafting weakening amendments to its own public notification rule. That history is summarized in PEER news releases.[4]

Any primacy agency has the regulatory authority to require parental notification for SDWA violations, yet, as long as this is not a federal regulatory requirement, states often will not do so, as was the case in Missouri. This failure of the federal public notice rule to require parental notification played a role in the suspension and firing of longtime MODNR whistleblower Patricia Ritchie. In 2009, Ms. Ritchie became concerned about the chronic SDWA violations at Bradleyville R-I School, an elementary School in Taney County, Missouri that is also a stand-alone water system. By the close of the school year in May 2009 this public water system had incurred 35 violations of the SDWA, among them multiple maximum

[4] *See*, https://www.peer.org/news/news-releases/missouri-dnr-plans-to-weaken-safe-drinking-water-rules.html; see also, https://www.peer.org/news/news-releases/vote-would-legalize-drinking-water-violations.html.

contaminant level violations including one for *E. coli* bacteria. During the 2008/2009 school year there was only one month when this public water system did *not* get either a monitoring or maximum contaminant level violation. As public notice coordinator, Ms. Ritchie had already listed Bradleyville R-I School on a statewide news release for chronic monitoring violations. This is a broad, general notification tool that failed to reach students and parents at the school. After conferring with her chain-of-command, coworkers, and the regional office responsible for inspecting this water system, Ms. Ritchie sent the system a Notice of Violation mailing. That correspondence included instructions for the school to mail the notice to parents as school was on summer break, and therefore the option of sending the public notice home with the child was not available.

In March 2010, Ms. Ritchie received notice of a suspension for three days without pay. The following is a direct excerpt from that suspension letter:

- **On June 9, 2009, Jim Macy received a call from Bradleyville School. Specifically, Joe Combs called about a phone call and correspondence from you regarding public notice that needed to be completed by the school. Mr. Combs complained you were unreasonable in asking the school to send letters to parents when school was not in session. Regional staff and your supervisor had asked you not to include notification of parents as an option. You even agreed in an email dated June 5, 2009 that "It is not written into the regs. That notification of parents/guardians of minors is required, but I think it is implicit, since the parents are responsible for the child's health care, etc." Only after numerous e-mails back and forth between you and your supervisor did you comply with his directive. As a result of this incident you received a written warning on June 10, 2009.**

While there are many errors of fact in the excerpt above, the quote from Ms. Ritchie's e-mail is largely correct and demonstrates the problem EPA's omission of parental notification in the federal rule causes state enforcement staff in ensuring a school performs public notice in a reasonable manner. The statement, "Regional staff and your supervisor had asked you not to include notification of parents as an option," is particularly troubling as it demonstrates a primacy agency seeking to preclude parental notification. Nevertheless, Bradleyville School

belatedly sent notices home with children to notify parents in November 2009, after incurring another MCL violation of the SDWA. What this shows is that, under the current regulations, a public employee can have an uphill battle to see that parents are duly notified of drinking water violations at their child's school.

## IV. CONCLUSION

Exposure to contaminants can have serious health consequences, especially for certain classes of individuals who are particularly vulnerable, such as infants and children, the elderly, and those with a medical condition. In some circumstances, the contaminant is so dangerous that there is no acceptably safe level. Lead, for example, has no level of exposure considered "safe" in children; yet as seen in Flint, Michigan, drinking water can be a major source of lead exposure.[5] If a nursery or school has more lead than is allowed under the SDWA, the parents need to know to be able to take their own protective action, to ensure the safety and health of their children. The lead, public education, and public notice issues in Flint, Michigan are beyond the scope of this petition, but we do assert parental notification concerns apply there as well. The same is true for guardians of the elderly or mentally-disabled who are living in nursing, group, or retirement homes.

Public notification is an important element in the enforcement of drinking water standards, and is therefore important to the whole scheme of the SDWA. Adequate public notification ensures that the public has trust in the processes of the government, that the public has sufficient information to make reasoned decisions about their health, and that the public places adequate pressure upon the political process and public water system operators to bring about positive change in the management of our national drinking water supply. Shortchanging

[5] Environmental Protection Agency, *Basic Information about Lead in Drinking Water*, https://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water.

one aspect of notification threatens the whole edifice. In this case, the lack of requirements to notify parents and guardians puts our most vulnerable citizens at risk. For the foregoing reasons, PEER respectfully requests that the U.S. EPA to institute a rulemaking to amend the public notification requirements to mandate direct notification of parents of minor children and guardians of adults requiring an individual with the power of attorney.

Respectfully submitted,

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**APPENDIX A**
**Proposed Rule**

**(c)** Who must be notified?

**(1)** Each public water system must provide public notice to persons served by the water system, in accordance with this subpart. Public water systems that sell or otherwise provide drinking water to other public water systems (i.e., to consecutive systems) are required to give public notice to the owner or operator of the consecutive system; the consecutive system is responsible for providing public notice to the persons it serves.

**(2)** Each public water system shall also provide public notice to:

> **(i)** Parents and other interested third parties. Upon receiving notification or learning of any violation of a national primary drinking water regulation or other listed situation, any public water system that functions as a school, day care, camp, nursing home, retirement home, group home, assisted living facility, or any such facility that serves minors or adults for whom power-of-attorney has been assigned, the public water system shall provide the public notice to the parents/guardian of any minors or those with power of attorney for an incapacitated adult. Parents of minor children are entitled to notification regardless of whether school is currently in session. For Tier 1 and Tier 2 violations, the public water system shall provide a copy of the full public notice to parents, guardians or those with power of attorney. This may be done by hard copy or electronic version; and
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> **(ii)** Prospective residents, customers or clients. Any public water system that maintains a website or social media page shall prominently post all current public notices.

**(3)** Parents and other interested third parties whose wards are served by a customer of a public water system in violation of national primary drinking water regulations. Upon receiving notification or learning of any national primary drinking water violation, such as an MCL violation, or other listed situation, any school, daycare, nursing home, retirement home, group home, assisted living facility, or any such facility that serves minors or adults for whom power-of-attorney has been assigned, shall provide public notice to the parents/guardian of any minors or those with power of attorney for an incapacitated adult. This requirement may be waived or adjusted if the facility determines all parents or other interested parties have already received notification as customers of the same water system themselves. This waiver would apply, for example, when a small daycare center determines all parents are also customers of the same water system.

**(4)** If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the primacy agency may allow the system to limit distribution of the public notice to only persons served by that portion of the system which is out of compliance. Permission by the primacy agency for limiting distribution of the notice must be granted in writing.

**(5)** A copy of the notice must also be sent to the primacy agency, in accordance with the requirements under § 141.31(d). Along with a copy of the public notice, the public water system shall also include a statement detailing how public notice was performed and to whom it was distributed.