

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WSG 57

Date Signed: May 22, 1990

MEMORANDUM

SUBJECT: Revised Definition of Significant Noncomplier (SNC) and the Model for Escalating Responses to Violations for the PWSS Program

FROM: Michael B. Cook, Director (signed by Michael B. Cook)
Office of Drinking Water

TO: Water Management Division Directors
Regions I - X

This memorandum transmits the revised definition of significant noncomplier (SNC) and the Model for Escalating Responses to Violations for the Public Water System Supervision (PWSS) program. Both of these documents have been developed as part of our FY 1990 Enforcement Initiatives to strengthen the enforcement component of the PWSS program.

The new SNC definition is part of a three-tiered prioritization scheme for all violators of the National Primary Drinking Water Regulations (NPDWRs). Tier 1 is composed of the SNCs -- those violators which present the greatest risk to health and which, therefore, are generally primary enforcement targets. Tier 2 represents an intermediate set of violators. Some of these have not been in violation long enough to become SNCs; others are in violation of an MCL, but the level of the contaminant is sufficiently low that it does not pose an immediate threat to public health. Tier 3 contains the rest of the violators of the NPDWRs. Attachment 1 to this memorandum is a summary of the definition of each tier of violations.

The definition and prioritization scheme will be phased in according to the following schedule:

FY 1991: Community and nontransient noncommunity water systems.

FY 1992: Transient noncommunity systems serving 500 or more persons.

FY 1993: Transient noncommunity systems serving less than 500 persons.

We will use the new SNC definition to set Regional STARS targets for SNC reductions for FY 1991.

The Model for Escalating Responses to Violations is designed to clarify the Office of Drinking Water's expectations for State and Federal responses to violations. The escalation model uses the same tiers of violations and recognizes that in general the Tier 1 violators (SNCs) are the highest priority for enforcement actions. The model suggests that formal actions are appropriate in certain Tier 2 cases, especially in the case of continued microbiological non-reporting of MCL violations. However, we recognize that resources may limit the number of Tier 2 violations which can be addressed through formal actions.

There are several criteria which may be used along with the tiers to prioritize systems for action. One of these is the population served by the system. The workgroup which developed the SNC definition discussed the inclusion of population served as a part of the SNC definition; for example, including in the definition a criterion which would make large systems become SNCs with a fewer number of violations than smaller systems. The workgroup decided against this approach on the grounds that individuals served by small systems deserve the same level of health protection as those served by larger systems. I support this decision; however, I do believe that population served by a system should be used in prioritizing potential candidates for enforcement actions. Therefore, I ask that, in reviewing both SNCs and Tier 2 violators for potential enforcement actions, the Regions consider the population served by the system and, in general, proceed against systems with larger populations before those with smaller populations.

Another possible criterion for establishing priorities for Tier 2 chemical/radiological violators is the length of time the system has been in violation. This is especially true since the Tier 2 violator may eventually become a SNC. Although the workgroup could not agree on this as part of the SNC definition, the Unreasonable Risk to Health (URTH) Guidance which will be issued later this year will add a time dimension to the definition of Unreasonable Risk to Health for non-acute contaminants. A system that exceeds the MCL, but does not present an URTH initially, will eventually be considered to have an URTH and therefore to be SNC after a certain number of years.

Several Regions have stated that they believe the escalation model is inconsistent with the timely and appropriate criteria in that it suggests formal enforcement action at an earlier stage than the timely and appropriate criteria. I believe that there is no inconsistency. First, the timely and appropriate criteria are a management tool to help evaluate performance and clarify expectations on the types of actions which should be taken and the timeframes for those actions; they were not designed to preclude a formal action at an earlier stage. Secondly, ODW has always maintained that SNCs and exceptions are not the only targets for State or Federal enforcement actions. Finally, the use of the model may help us to improve performance against the timely and appropriate criteria in that if a formal action is started prior to the system becoming a SNC, the action may be completed before the timely period expires.

Attachment 2 contains the complete explanation of the escalation model. Attachment 3 is a chart which summarizes both the tiers of violations and the suggested enforcement responses for that tier.

I request that each of you review your State-EPA Enforcement Agreements and State

Compliance Strategies and develop plans for strengthening these to include the new SNC definition and the escalation model. The summary and recommendations from last year's enforcement reviews should also be referenced.

I would like to take this opportunity to thank all who were involved in the SNC redefinition and the development of the escalation model for their helpful comments and insights. Special thanks goes to Oscar Cabra, Chief of the Water Supply Branch in Region VI for his service as the SNC Redefinition Workgroup Chairman and to the members of his workgroup: Jerry Healey, Jon Capacasa, Joe Harrison, Pat Crotty, Steve Pardieck, Bill Davis, and Chet Pauls. I count on the cooperation and continued support of you and your staff as we implement the new SNC definition and the escalation model.

Attachments

cc: Drinking Water/Groundwater Protection Branch Chiefs
Drinking Water Section Chiefs
PWSS Enforcement Coordinators
Kathy Summerlee, OEMC

**SIGNIFICANT NONCOMPLIANT (SNC) DEFINITION -- SUMMARY
(TIER 1 VIOLATIONS)**

An SNC is a public water system which meets any of the following criteria:

1. Microbiological/Turbidity:**(a) Systems on monthly monitoring:**

- 4 or more violations of the microbiological or turbidity MCL during any 12 consecutive months.
- 6 or more combined "major"* violations of the microbiological or turbidity monitoring/reporting requirements and/or violations of the microbiological or turbidity MCL during any 12 consecutive months.
- 10 or more combined microbiological or turbidity monitoring/reporting ("major" or "minor"**) and/or MCL violations during any 12 consecutive months.

(b) Systems on quarterly monitoring:

- two or more violations of the microbiological MCL during any four consecutive quarters.
- three or more combined "major" violations of the microbiological monitoring/reporting requirements and/or MCLs during any four consecutive quarters.

(c) Systems on annual monitoring:

- two or more combined "major" violations of the microbiological monitoring/reporting requirements and/or MCLs during any two consecutive one-year periods.

2. Chemical/Radiological:

- (a) Exceeds the unreasonable risk to health level identified for that contaminant. (Unreasonable risk to health guidance/criteria will be distributed under separate cover.)**

Attachment 1, (cont'd.)
SNC Definition

Note: The interim URTH guidance for nitrate specified two URTH levels -- 10 mg/l for infants under 6 months of age and 20 mg/l for the remainder of the population. For the purposes of determining SNCs, we will use 10 mg/l as discussed at the Branch Chiefs' meeting. If the nitrate concentration in a PWS is between 10 and 20 mg/l and the conditions in the February 26, 1990 memorandum on "Interim URTH Values for Nitrate/Nitrite and Fluoride" are met, the PWS may be eligible for an exemption.

(b) Fails to monitor for or report the results of any of the currently regulated contaminants for two consecutive compliance periods.

3. Surface Water Treatment Rule:

- ** To be clarified this spring. **

4. Public Notification:

- Fails to provide notice to the consumers of the violations which result in the system becoming an SNC.

* A "major" monitoring/reporting violation is one where no samples were taken or results reported during a compliance period.

** A "minor" monitoring/reporting violation is one where an insufficient number of samples were taken or results reported during a compliance period.

TIER 2 VIOLATORS -- SUMMARY

A Tier 2 violator is a public water system which meets any of the following criteria:

1. Microbiological/Turbidity**(a) Systems on monthly monitoring:**

- two or more violations of the microbiological or turbidity MCL during any 12 consecutive months.
- three or more combined "major" violations of the microbiological or turbidity monitoring/reporting requirements and/or violations of the microbiological or turbidity MCLs during any 12 consecutive months.
- five or more combined violations ("major" or "minor") of the microbiological or turbidity monitoring/reporting requirements and/or violations of the MCLs during any 12 consecutive months.

(b) Systems on quarterly monitoring:

- one or more violation of the microbiological MCL.
- two or more combined "major" violations of the monitoring/reporting requirements and/or violations of the MCL in four consecutive quarters.

2. Chemical/Radiological:

- All violations of the chemical/radiological MCLs where the concentration of the contaminant does not exceed the unreasonable risk to health level.
- Any monitoring/reporting violation.

3. Public Notice:

- All public notification violations not covered by the SNC definition.

4. SWTR:

- ** to be clarified in the spring. **

TIER 3 VIOLATIONS -- SUMMARY

A Tier 3 violator is a public water system which meets any of the following criteria:

1. Microbiological/Turbidity

(a) Monthly monitoring:

- one violation of the microbiological or turbidity MCL in 12 months.
- one or two combined "major" violations of the microbiological or turbidity monitoring/reporting requirements and/or violations of the microbiological or turbidity MCLs in 12 consecutive months.
- one to four combined violations ("major" or "minor") of the microbiological or turbidity monitoring/reporting requirements and/or violations of the microbiological or turbidity MCLs in 12 consecutive months.

(b) Quarterly monitoring:

Not applicable. All violations of microbiological MCLs or monitoring and reporting requirements begin as Tier 2 violations.

2. Chemical/Radiological

Not applicable. All violations of chemical/radiological MCLs and/or monitoring and reporting requirements begin as Tier 2 violations.

3. Public Notice

Not applicable. All violations begin as Tier 2.

4. SWTR

- ** To be expanded/clarified. **

A MODEL FOR ESCALATING RESPONSES TO VIOLATIONS

The Office of Drinking Water (ODW) has developed a model for escalating responses to violations. This model clarifies the Office's expectations for State and federal responses to violations of the Safe Drinking Water Act (SDWA) and the National Primary Drinking Water Regulations (NPDWRs). It is expected that this model will be used by States to develop or strengthen their compliance strategies. EPA Regional Offices are expected to rely on the model in developing their State - EPA enforcement agreements and overseeing State enforcement programs, especially in the review of State compliance strategies and of State responses to violations. The Regions are also expected to rely on the model to help determine when federal enforcement actions should generally occur.

ODW recognizes that the States often have regulations or operating requirements for public water systems which are different from the federal requirements and that the States enforce these. ODW also recognizes that States have many different types of enforcement authorities. These guidelines are not intended to alter the State enforcement of its own regulations nor to preclude use of State authorities not specifically mentioned in this model.

We hope that this model will assist in the development of strong and effective enforcement programs nationwide.

The model for escalating responses to violations incorporates the following concepts:

1. Violations of the national primary drinking water regulations (NPDWRs) should receive a response from the primacy agency.
2. Responses to violations should escalate in formality as the violation continues or recurs.
3. Some violations are very serious and pose an immediate risk to public health. In these circumstances, it is appropriate to proceed directly to a formal action, such as an emergency administrative order, an injunction or a temporary restraining order (TRO), or an emergency civil referral.
4. States have primary enforcement responsibility. Therefore, the first response to a violation should generally be by the State and federal action is generally reserved for continuing violations where the State has not acted appropriately or where the State requests assistance. However, in cases where the Region is directly implementing the program (either because the State does not have primacy, the State has not adopted one of EPA's new regulations, or on Indian lands) "State"

should be read to include the Regional office. In addition, these guidelines should not be interpreted to preclude federal action at any point in the process if the situation warrants it.

5. Generally, the majority of enforcement actions are administrative in nature. However, judicial cases are important enforcement tools and should be used.
6. This model is intended to be consistent with ODW's new definition of significant noncompliance (SNC), including the categorization of all violations into three tiers. The model suggests responses based on type and level (tier) of the violation. In addition, the model is intended to be consistent with and complement existing timely and appropriate enforcement response guidance and the PWSS Compliance and Implementation Strategy of April 1987.
7. In some circumstances, continuing an enforcement action may be so resource intensive that the costs involved clearly outweigh the benefits to be derived. In such a case, the Region (or State) may decide not to continue with a formal enforcement action and may look for other means for returning the system to compliance. Such a decision must be clearly documented in the case files and is subject to careful review.

MODEL RESPONSES TO VIOLATIONS

This Model for Escalating Responses to Violations suggests responses based on the category of the violation; that is, the tier into which it has been placed. Generally, responses to Tier 3 violations are informal; while responses to Tier 1 violations (SNCs) must satisfy the timely and appropriate enforcement response guidelines. The responses to Tier 2 violations are generally more formal than Tier 3. A chart summarizing the definitions of each tier of violations and the suggested enforcement responses to these violations is attached.

RESPONSES TO TIER 3 VIOLATIONS

Tier 3 violations are first-time microbiological and turbidity monitoring/reporting (M/R) violations, the first-time Surface Water Treatment Rule violations, and first-time microbiological/turbidity MCL violations. Responses here are generally informal; e.g., reminder letters and telephone calls and escalate to stronger letters.

(a) **Monitoring/Reporting and Combinations of Monitoring/Reporting and MCL Violations**

This applies to microbiological and turbidity violations only. Chemical and radiological M/R violations begin as Tier 2 violations.

- **First violation:** Reminder letter or telephone call (if properly documented in files). This should inform the system of its violation, explain the monitoring/reporting requirements, and offer assistance if needed. Letter/telephone call should also remind system that public notification of its failure to comply with the monitoring requirements is required. This applies to both major and minor M/R violations in systems on both monthly and quarterly monitoring.
- **Second violation:** Stronger letter to the system again explaining the monitoring/reporting requirements, noting that the system has not returned to compliance even after the first notice that they were in violation. Primacy agency may inquire at this time if there is a particular problem with the system which is preventing it from complying with the monitoring/reporting requirements and if technical assistance is needed. This applies to both major and minor M/R violations for systems on monthly monitoring and to minor M/R violations only for systems on quarterly monitoring. If the system's first violation was an M/R violation and the second violation is an MCL violation, use the responses in (b) below.
- **Third violation:** Minor M/R violations for systems on monthly monitoring only. All others have moved to Tier 2. At this point, the system has ignored two communications from the primacy agency and so stronger action is needed. Suggest agency contact the owner/operator directly and discuss the situation, warning the system that if it does not comply, more formal action will be forthcoming. Agency should consider formal action if a fourth violation occurs or if any results show an MCL violation. Region may wish to consider federal NOV if State has not acted by this point.

(b) **MCL Violations**

This applies to systems on monthly monitoring with microbiological and turbidity MCL violations only. Chemical/radiological violations begin at Tier 2. Only one MCL violation in a twelve month period is allowed before moving to Tier 2. Suggested response to the MCL violation is a letter to the system noting that it is in violation; explaining the health impacts of the violation; reminding it of any required check-samples; informing it of the requirement to perform public notification. Such a letter should offer technical assistance in correcting the problem and provide a contact in the State or local office. The letter should also state that another violation of the

microbiological or turbidity MCL may subject the system to enforcement action. If system does not respond to this communication within five days, additional action is recommended. In these cases, the State should contact the system directly and/or consider a more formal action.

(c) Surface Water Treatment Rule (SWTR) Violations

This will be clarified as the categorization of SWTR violations is clarified. Generally, however, the response to the first violation or month of violation will be informal, for example, a letter or telephone call to the system noting that it is in violation and offering technical assistance if needed.

RESPONSES TO TIER 2 VIOLATIONS

Tier 2 violations consist of those violations of the microbiological or turbidity MCL or M/R requirements (or a combination of MCL and M/R violations) or of the SWTR requirements which have continued for a certain length of time. For these types of violations, the response by the primacy agency should be stronger and more formal than the response to the Tier 3 violations. Federal action (NOV or PAO) should be initiated if the State has not acted in response to the violation, if the system has not responded to the State action, or if the State requests it.

In addition, Tier 2 includes chemical and radiological MCL violations below the SNC level, any violation of the chemical/radiological M/R requirements which does not meet the criteria for a SNC, and violation of the public notification requirements by systems not yet SNCs. Since this is the first time these violations have appeared, the responses begin by being less formal (e.g., telephone calls, reminder letters) and escalate if the system does not respond.

(a) Microbiological/Turbidity/M/R violations and Combinations of M/R and MCL violations.

This is the third major M/R violation for systems on monthly monitoring and the second major M/R violation for systems on quarterly monitoring. For these, primacy agency should begin with a site visit or other means of contacting the owner/operator directly if this has not already been done. State officials should confirm that public notification has been performed. The primacy agency may wish to take samples itself to determine the microbiological quality of the water. The visit/conversation should be followed up with a strongly worded warning letter stating that the system must comply or that an enforcement action is forthcoming. If another violation (major or minor) occurs or if any monitoring results demonstrate an MCL violation, formal enforcement actions (State or Federal) should begin.

This is the sixth minor M/R violation for systems on monthly monitoring. Formal notice of violation (State or Federal) or other formal action should begin (if it hasn't already). This is especially true if there is any indication of an MCL violation.

(b) Microbiological/Turbidity MCL Violations

This is again a situation of continuing MCL violations even after the system has been contacted by the State. In these cases, State should schedule a site visit to determine the nature of the problem (if State officials do not already know from earlier visits). Any visit should be followed-up with a letter or a report specifying remedial actions to be taken and a schedule for those. The report should also explain the health effects of the violations. The State should insure that public notification has been performed and that the system is taking adequate measures to protect the public health. If the system is not and there is an "acute" risk, the State should consider use of any emergency or other authorities to compel the system to take necessary measures to protect the public. Federal enforcement actions should begin if the State has not acted to deal with the situation.

(c) Chemical/Radiological M/R Violations

This is the first time a chemical/radiological M/R violation appears. For the first violation, then, a letter (or phone call if properly documented in the files) reminding the system of the M/R requirements, and offering assistance if needed is appropriate. System should be given a date for the submission of M/R results and warned that another M/R violation will put them into the category of significant noncomplier and a formal enforcement action will be forthcoming. If a system does not respond to the letter and/or does not submit the results as required, formal enforcement action should be initiated.

(d) Chemical/Radiological MCL Violations below the SNC level

This is the first time a chemical/radiological MCL violation appears. Suggested response is a letter to the system noting that it is in violation, reminding it of any required check samples, informing it of the requirement to perform public notification of the violations. The letter should also discuss the health effects of the MCL violation, specify any interim measures necessary to protect public health, offer technical assistance in correcting the problem and provide a contact person in the State office.

If there is no response to this first letter within 30 days (less if there is an acute risk to the health of the general public or a sensitive group), the State should schedule a site visit to determine the exact nature of the problem (if not already known). State should send a strongly worded letter to the system notifying it of its continuing violation and reminding it of the requirement to perform public notification. This letter should restate the health effects information and the necessary interim measures. State letter should specify the necessary remedial actions and provide a timetable.

If there is still no response from the system within 30 days (less if there is an acute health risk as noted above) or the system fails to perform remedial actions on the suggested timetable, the

State should issue a warning letter saying that formal enforcement is forthcoming or proceed directly to formal enforcement actions. Federal action should be initiated here if the State has not acted or if the system is unresponsive to the State's actions.

(e) Public Notification

Violation of the public notification requirements should be dealt with at the same time other violations are being addressed; that is, when the primacy agency sends letters/notifications to the system informing it of violations, any violation of the public notification requirements should be included with these.

(f) SWTR violations

This will be clarified as the definitions of the tiers of SWTR violations are clarified. Generally, however, the Tier 2 violations represent continuing violations of the rule, where the system has already received notification of its violation from the primacy agency. At this point, the primacy agency may wish to schedule a site visit or discuss the situation with the owner/operator of the water system. This should be followed up with a strongly worded letter with corrective actions and a timetable.

If the system continues its violations and does not take remedial/corrective actions, primacy agency should proceed to formal enforcement. Federal enforcement should be initiated here if the State has not acted or if the system has been unresponsive to the State's actions.

RESPONSES TO TIER 1 VIOLATIONS (SNCs)

Tier 1 violations are the significant noncompliers (SNCs). By the time the public water system becomes a SNC, the opportunity to deal with the system's violations through informal measures has passed. The system should be dealt with in accord with the PWSS "timely and appropriate" guidance. "Appropriate" responses are the following:

- ! Bilateral compliance agreement (signed by both parties; containing interim milestones);
- ! State or Federal administrative order;
- ! State or Federal civil referral; and
- ! State or Federal criminal case

In order for these actions to be considered "timely" they must be taken within six months of the discovery of the SNC.

Note -- Nitrate only: As noted in the SNC definition, two unreasonable risk to health values

have been specified for nitrate, 10 mg/l for infants up to 6 months of age and 20 mg/l for the remainder of the population. As was discussed at the Seattle Branch Chiefs' meeting, 10 mg/l will be used to determine SNCs. If, however, the PWS has nitrate levels between 10 and 20 mg/l, and the system meets the conditions in the February 26 memorandum on "Interim URTH Values for Nitrate/Nitrite and Fluoride", the system may be eligible for an exemption.

RESPONSES TO "IMMINENT AND SUBSTANTIAL ENDANGERMENT" SITUATIONS

If a situation occurs such that there is an "imminent and substantial endangerment to human health", informal responses should be skipped or greatly accelerated. The State (or EPA) should use whatever powers it has to order measures to protect the public health.

CRITERIA FOR A CIVIL REFERRAL

One of the principles of this model is that civil judicial referrals are important enforcement tools. The office recognizes, however, that the resources involved in pursuing a judicial case at either the State or Federal level are often very great. Yet there are some circumstances where an administrative action will not yield a sufficient remedy. In these situations, a civil referral should be pursued. Examples of some such situations are listed below:

- ! Continued noncompliance in the face of outstanding administrative orders;
- ! A determination that a higher penalty than can be obtained in an administrative action is appropriate;
- ! A desire to have, as part of the settlement, an enforceable consent decree, with a schedule and stipulated penalties for noncompliance, in order to insure that the system remains on a compliance schedule.
- ! The case has Regional or national significance due to its unique facts.

MONITORING SYSTEMS' PROGRESS TOWARDS COMPLIANCE

Once an action has been taken and a system is on a schedule to come into compliance, the State or EPA should monitor the system's progress. Violations of schedules should be documented as well as the State or Federal response to the violations. If a milestone or a requirement of a schedule, order, or consent decree is missed, the appropriate authorities should investigate the situation to determine why the requirement was missed. The results of this investigation should be documented in the file and used as a basis for determining the response to the violation. Certain violations will be so blatant (e.g., refusing to install equipment after it has been delivered) as to demand an additional formal response, such as a complaint for penalty, an action for contempt,

and/or seeking stipulated penalties. Others (e.g., a required report being submitted a few days late) may not require an additional formal action, but may be addressed through a reminder telephone call or letter. Such a determination is best left to the agency responsible for enforcing the decree or schedule; however, the decision and justification should, in all circumstances, be adequately documented in the case file.

Final note: The tracking of a system's progress is primarily the responsibility of the agency which issued the schedule or order. The Regions should oversee the States' actions in this regard as part of their routine oversight of State enforcement programs. The Regions need to track systems' compliance with any Federal consent decrees in accord with the "Judicial Consent Decree Tracking and Follow-up Directive" (January 1990) issued by the Office of Enforcement and Compliance Monitoring. Tracking of compliance with Federal administrative orders should be performed in accord with guidance the Office of Drinking Water will issue in the summer of 1990.

SUMMARY -- A MODEL FOR ESCALATING RESPONSES TO VIOLATIONS

Tier 3	Micro/Turb MR	Micro/Turb MCL	Chem/Rad M/R	Chem/Rad MCL	PN	SWTR
<p>Description of Violations:</p>	<p>Monthly Monitoring: - 1 or 2 "major" M/R or MCL violations in 12 consecutive months - 1 to 4 "major" or "minor" M/R or MCL violations in 12 consecutive months Quarterly reporting: Not applicable; 1st violation is Tier 2</p>	<p>Monthly Monitoring: - 1 MCL violation in 12 months Quarterly Monitoring: Not applicable. All MCL violations begin as Tier 2</p>	<p>Not applicable; all chem/rad M/R violations begin as Tier 2</p>	<p>Not applicable; all chem/rad MCL violations begin as Tier 2</p>	<p>Not applicable</p>	<p>To be clarified in the spring</p>
<p>Response:</p>	<p>Monthly Monitoring: Major: 1st violation: Reminder letter or telephone call 2nd violation: Stronger letter (if 2nd violation is MCL, use responses for MCL violations) (cont'd)</p>	<p>Monthly Monitoring: 1st violation: Letter to (or direct contact with) system. If system does not response within 5 days (or less), contact system directly and/or proceed to more formal action (cont'd)</p>	<p>Not applicable; all chem/rad M/R violations begin as Tier 2 violations (cont'd)</p>	<p>Not applicable; all chem/rad MCL violations begin as Tier 2 violations</p>	<p>Although technically there is no Tier 3 PN violation, PN should be confirmed in discussions/letters on violations (cont'd)</p>	<p>To be clarified, although generally the response to the first violation will be informal, e.g., a letter or telephone call</p>

Tier 3 (cont'd.)	Micro/Turb M/R	Micro/Turb MCL	Chem/Rad M/R	Chem/Rad MCL	PN	SWTR
Description of Violations:	(SEE PREVIOUS PAGE)					
Response:	Minor: 1st violation: Reminder letter or telephone call 2nd violation: Stronger letter 3rd violation: Contact owner/operator; warning letter 4th violation: Formal action. Consider federal NOV if State has not acted by this time or if MCL violation appears Quarterly Monitoring: Major: 1st violation: Reminder letter or telephone call Minor: 1st violation: Reminder letter 2nd violation: Stronger letter	Quarterly Monitoring: Not applicable; 1st violation is Tier 2			PN violations should be followed up on at same time as other violations	

Tier 2	Micro/Turb MR	Micro/Turb MCL	Chem/Rad MR	Chem/Rad MCL	PN	SWTR
<p>Description of Violations:</p>	<p>Monthly Monitoring:</p> <ul style="list-style-type: none"> - 3 or more "major" M/R or MCL violations in 12 consecutive months - 5 or more "major" or "minor" M/R or MCL violations in 12 consecutive months <p>Quarterly Monitoring: (Microbiological only)</p> <ul style="list-style-type: none"> - 2 or more "major" M/R or MCL violations 	<p>Monthly Monitoring:</p> <ul style="list-style-type: none"> - 2 or more MCL violations in 12 consecutive months <p>Quarterly Monitoring:</p> <ul style="list-style-type: none"> - 1 or more microbiological MCL violation 	<p>Any chemical or radiological monitoring and reporting violation for one compliance period</p>	<p>Any violation of the chemical or radiological MCLs below the URTH level</p>	<p>Currently Tier 2 violations will be all those not covered by the SNC definition</p>	<p>Definition of SWTR Tier 2 violations will be expanded</p>
<p>Response:</p>	<p>Monthly Monitoring:</p> <p>Major: 3rd violation: site visit or other direct contact with PWS; warning letter</p> <p style="text-align: center;">(cont'd)</p>	<p>Monthly and Quarterly Monitoring:</p> <p>2nd MCL violation for monthly monitoring; 1st violation for</p> <p style="text-align: center;">(cont'd)</p>	<p>1st violation: Reminder letter or telephone call; provide date for submission of M/R results. If no response or if system</p> <p style="text-align: center;">(cont'd)</p>	<p>1st violation: Reminder letter Specify remedial actions and schedule If no response or system fails to take remedial actions, site</p> <p style="text-align: center;">(cont'd)</p>	<p>Violation of PN requirements should be dealt with at the same time as other violations</p> <p style="text-align: center;">(cont'd)</p>	<p>Although the definition needs to be expanded continuing violations should</p> <p style="text-align: center;">(cont'd)</p>

Tier 2, (cont'd.)	Micro/Turb MR	Micro/Turb MCL	Chem/Rad M/R	Chem/Rad MCL	PN	SWTR
Description of Violations:	(SEE PREVIOUS PAGE)					
Response:	<p>Next violation (major or minor) or if any indication of MCL violations: Begin formal enforcement</p> <p>Minor: 6th violation: Formal action should begin</p> <p>Quarterly Monitoring:</p> <p>2nd major or 3rd minor violation: Site visit or other direct contact with PWS; follow up with warning letter</p> <p>Next violation (major or minor) or if any results indicate MCL violation, begin formal enforcement</p>	<p>quarterly monitoring; Site visit; follow up with letter/order specifying remedial actions and schedule</p> <p>If no response from system or if system is uncooperative, begin formal enforcement actions</p> <p>Federal NOV if State hasn't acted at this point</p>	<p>does not submit data as required, initiate formal action</p>	<p>visit, followed up with strongly worded warning letter repeating remedial actions and schedule</p> <p>If no response within 30 days, formal action</p>	<p>that is, in the letters in the formal actions</p>	<p>probably be dealt with by scheduling a site visit or other direct contact with PWS; follow up with specific corrective actions and schedule</p> <p>If violation continues and corrective action is not taken, initiate formal action</p>

Tier 1 (SNCs)	Micro/Turb M/R	Micro/Turb MCL	Chem/Rad M/R	Chem/Rad MCL	PN	SWTR
<p>[Description of Violations:]</p>	<p>Monthly Monitoring:</p> <ul style="list-style-type: none"> - 6 or more "major" M/R or MCL violations in 12 consecutive months - 10 or more "major" or "minor" M/R or MCL violations in 12 consecutive months <p>Quarterly Monitoring:</p> <ul style="list-style-type: none"> - 3 or more "major" violations of the microbiological M/R requirements or MCLs in 4 consecutive quarters <p>Annual Monitoring:</p> <ul style="list-style-type: none"> - 2 or more "major" violations of the microbiological M/R requirements or MCLs in 2 consecutive one-year periods 	<p>Monthly Monitoring:</p> <ul style="list-style-type: none"> - 4 or more violations of the MCLs during any 12 consecutive months <p>Quarterly Monitoring:</p> <ul style="list-style-type: none"> - 2 or more microbiological MCL violations in any 4 consecutive quarters 	<p>Fails to monitor for or report the results of any of the currently regulated contaminants for 2 consecutive compliance periods</p>	<p>Exceeds the unreasonable risk to health level identified for that contaminant</p>	<p>Fails to provide notice to consumers of the violations which result in the system becoming a SNC</p>	<p>Definition of SNC for SWTR to be clarified this spring</p>

Tier 1 (SNCs) (cont'd.)	Micro/Turb MR	Micro/Turb MCL	Chem/Rad M/R	Chem/Rad MCL	PN	SWTR
Response:	<p>Enforcement Responses to SNCs should follow the timely and appropriate guidance. A final action must be taken with six months of the discovery of the SNC to be considered timely. The following are the appropriate actions:</p> <ul style="list-style-type: none"> - Bilateral compliance agreement (signed by both parties and containing interim milestones); - State or Federal administrative order; - State or Federal civil referral; and - The filing of a State or Federal criminal case. <p>"Imminent and Substantial" Endangerment Cases: Skip escalation model. Proceed directly to formal action as necessary to protect public health.</p>					