

Date: 26 April 2012

To: ODW Staff

From: Steven D. Pelli, PE, Acting Director *SDP*
Office of Drinking Water

Subject: SURVEILLANCE AND REGULATIONS – Transition between Stage 1 and
Stage 2 DDBP Rules and Stage 2 Rule Extension Requests

Reference: *Compliance Sampling and Reporting Guidance Manual,*
SDWIS Users Manual

Project Leader: Doug Meyer

Reviewed by: Susan E. Douglas *SED*

SUMMARY STATEMENT

This memo outlines the procedures for compliance monitoring during the transition period between the Stage 1 and Stage 2 Disinfectant and Disinfection Byproduct (DDBP) Rules. It also describes how compliance will be determined for disinfection byproduct maximum contaminant levels (MCLs), reporting violation and enforcement data through SDWIS/STATE, and public notification requirements during the transition period. The memo also provides procedures and templates for evaluating Stage 2 DDBP Rule extension requests for capital improvements, and instructions for determining compliance during the extension period.

The procedures described herein are based on the Memorandum from Ann Codrington, Director of the Drinking Water Protection Division of the EPA in Washington, D.C., dated Feb 13, 2012 with the SUBJECT: "Safe Drinking Water Act – Compliance Monitoring Transition Period between the Stage 1 and Stage 2 Disinfectants and Disinfection Byproducts Rules and Extension Agreements."

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Attachments

- A. LETTER TO OWNER, INFORMATIONAL
- B. EXTENSION REVIEW WORKSHEET
- C. TEMPORARY EXTENSION
- D. INITIAL PUBLIC NOTICE
- E. TRANSMITTAL LETTER TO OWNER – DRAFT
- F. TRANSMITTAL LETTER TO OWNER – FINAL
- G. EPA MEMORANDUM dated Feb 13, 2012

1. BACKGROUND

Federal and state regulations for Stage 1 and Stage 2 both require community and nontransient noncommunity waterworks to monitor for total trihalomethanes (TTHM) and five haloacetic acids (HAA5). Under Stage 1, compliance with the TTHM and HAA5 Maximum Contaminant Levels (MCLs) is based on the system-wide running annual average (RAA) results of all monitoring locations. Under Stage 2, compliance with the TTHM and HAA5 MCLs will be based on locational running annual averages (LRAA) at each compliance location within the distribution system.

The start date for Stage 2 DDBP compliance monitoring has been scheduled based on the waterworks' 2006 service population. Monitoring plans for Stage 2 are required, and in some cases the monitoring locations have changed. Significant milestones are given as follows:

PWS or CDS¹: Population	Stage 2 Monitoring Start Date²	Stage 2 Sampling Plan ODW Approval Deadline
Sch 1: $\geq 100,000$	April 1, 2012	January 1, 2012
Sch 2: 50,000-99,999	October 1, 2012	July 1, 2012
Sch 3: 10,000-49,999	October 1, 2013	July 1, 2013
Sch 4: < 10,000 w/o crypto monitoring	October 1, 2013	July 1, 2013
Sch 4: <10,000 w/crypto monitoring	October 1, 2014	July 1, 2014

2. TRANSITION TO STAGE 2

2.1. Monitoring & Compliance Determination

Once a waterworks begins monitoring for Stage 2, sampling from Stage 1 locations shall be discontinued.

Waterworks monitoring quarterly shall calculate compliance with Stage 2 at the end of the fourth calendar quarter. If the LRAA is calculated based on fewer than four quarters and exceeds the MCL (a "zero" is used for missing quarterly data in the computation during the transition period) then a Notice of Violation (NOV) is warranted.

Waterworks monitoring less frequently than quarterly that exceed the MCL for TTHM or HAA5 must begin quarterly monitoring. Compliance is then determined from the LRAA calculations after four consecutive quarters.

If a waterworks exceeds the MCL in Stage 1, the NOV continues until a Stage 2 LRAA compliance determination is made.

Refer to the *SDWIS Manual* for instructions on coding violations during the transition period.

¹ If a waterworks is included in a Combined Distribution system (CDS), their schedule is based on the population of the largest waterworks' service population in the CDS.

² Per the *Waterworks Regulations* 12VAC5-590-370 B 3(e) (3) Locational running annual average monitoring requirements.

2.2. Public Notification and Consumer Confidence Reports (CCRs)

Public Notification Rule requirements continue during the transition between Stage 1 and Stage 2. Specifically:

- Tier 2 Public Notice is required if an MCL exceedance occurs under Stage 1 or Stage 2.
- Tier 2 Public Notice for a Stage 1 MCL exceedance remains until a Stage 2 compliance determination is made.
- Tier 3 Public Notice is required for monitoring and reporting MCL exceedances under Stage 1 and Stage 2.
- The range of TTHM and HAA5 individual sampling results under Stage 1 and Stage 2 must be reported in the CCR.

3. MCL COMPLIANCE EXTENSIONS FOR CAPITAL IMPROVEMENTS

3.1. Authority

An extension of the Stage 2 Disinfectants-Disinfection Byproducts Rule MCL requirements is authorized in the footnote to the table found in 12VAC5-590-370 B 3 e (3) (c). Additionally, the extension is allowed under 40 CFR 141.620 (c) (footnote1). VDH may allow up to 2 additional years for the waterworks to comply with rule if additional time is needed for capital improvements. The following explanations are significant:

- “Capital improvements” include the design and construction of treatment facilities or alternative water supplies.
- The extension only applies to the TIME FRAME for compliance with an MCL or treatment technique (TT). Monitoring and reporting shall continue per the rule.
- For Stage 2, the extension refers to the switch from Stage 1 to Stage 2 monitoring and compliance determination methodology. **During the extension, compliance will be determined using Stage 2 sites and Stage 1 methodology (RAA, not LRAA).**
- Compliance LRAAs are not calculated until 4 quarters of data are obtained after “capital improvements” are completed and the extension ends.

ODW will adhere to EPA 816-R-07-007: The Stage 2 Disinfectants and Disinfection Byproducts Rule (Stage 2 DBPR) Implementation Guidance, Appendix I - Final Guidance for Reviewing Extension Requests under 1412(b)(10) of the *SDWA*, dated August 2007. Based on the federal guidance:

- 1) A waterworks wholesaler’s extension request application does not automatically extend to its consecutive waterworks,
- 2) Each consecutive waterworks shall submit a separate extension request application, and
- 3) A consecutive waterworks should work with its wholesaler to coordinate the extension request applications to expedite review.

3.2. Procedure

The process will require the owner to be proactive because a significant amount of preliminary work is needed before a request is submitted. If the waterworks owner requests information about an extension, the District Engineer will provide information to the owner using the letter provided in ATTACHMENT A.

- A. The waterworks submits a written request to ODW for the extension.
- B. The District Engineer reviews the request and coordinates modifications (e.g. schedule and interim measures) with the owner, and obtains concurrence from the Field Director, Local Health Director, and Central Office (ODW Central Office will confer with the Office of Epidemiology for their concurrence.) Use the review worksheet in ATTACHMENT B.
- C. If the extension is justified, the District Engineer drafts the Extension and Initial Public Notice using ATTACHMENTS C and D, respectively.
- D. The District Engineer forwards these draft documents to the owner, using the transmittal letter in ATTACHMENT E.
- E. The District Engineer makes any changes to the documents as agreed upon after conferring with the owner, and forwards the Extension to the Field Director for signature. The extension becomes effective after the Field Director and the Office Director sign the documents. The District Engineer sends the final signed documents to the owner using ATTACHMENT F.

3.3. Qualification of Applicant

The waterworks owner must apply for an extension in writing. To qualify for an extension, the waterworks must be existing and shall be in compliance with the current (Stage 1) rule. The application must provide the following qualification criteria:

- A. Data that shows the waterworks may not be able to reduce levels below the MCLs by the compliance deadline. The data shall include lab results showing high levels and information about the timing of various measures to reduce those levels.
- B. Evidence that a capital improvement project has been initiated to adequately address compliance with the Stage 2 MCL(s). Milestones must be identified.
- C. Documentation that the waterworks has made “Good Faith” efforts to meet the original compliance deadline of the Stage 2 Rule.
- D. Justification that the capital improvements warrant the duration of the extension request.
- E. Proposed interim measures that minimize public health risk during the extension period.

3.4. Extension Documents

A description of the extension documents and their use is given below.

- A. Initial Public Notice – for the owner to distribute before the extension is granted, to determine if there is significant or specific public concern and whether a public meeting is warranted.
- B. Extension – include the following Special Conditions:

- 1) Compliance Schedule, including milestones
- 2) Progress reports - A minimum quarterly reporting interval is required (monthly frequency may be more appropriate in some cases), with a statement of progress towards the critical deadlines.
- 3) Interim measures, as appropriate. The following should be considered: routine flushing, minimizing the use of specific sources known to cause high DBPs, provision of alternate drinking water for sensitive populations, provision of Point-of-Use or Point-of-Entry devices for sensitive populations, and interim treatment.

3.5 Ongoing Public Notification

Community waterworks shall include a notice of the extension in the annual Consumer Confidence Report for as long as the extension remains in effect.

3.6. Revocation of Extension

The extension may be revoked by the VDH if the waterworks does not demonstrate sufficient progress / adherence to the scheduled milestones in the Special Conditions.

3.7 Time Accounting and Tracking

Review of extension applications and the granting of the Stage 2 Rule Extension are to be entered into PT Log under the category "Other", subcategory "Exemptions & Variances". However, it should be noted that this is NOT a formal exemption or variance.

Tracking of all Extensions issued for the Stage 2 Rule will be performed on an Excel spreadsheet located at: <\\odwsrv1\odwshare\06-Technical Resources\630-Permits & Project Review>

END OF MEMO