


Date: February 23, 2001, Revised March 23, 2012
To: All ODW Staff
FROM: J. Wesley Kleene, Ph.D., P.E., Director 
Office of Drinking Water
Subject: Enforcement & Public Notification- Consumer Confidence Report
Implementation Instructions

Project Leader: Hugh Eggborn

Reviewed by: Susan E. Douglas 

Revision Highlights:

The procedures are revised to allow community waterworks serving less than 10,000 persons the option of mailing a copy of the CCR to each customer, or publishing the report in a local newspaper of general circulation. A revised certification statement template is attached.

The tracking procedures for CCR review and completion have also been clarified.

I. General

VDH's Consumer Confidence Reports (CCR) regulations, 12 VAC 5-590-545, became effective on August 3, 2000. The regulations were adopted without public hearings through a streamlined process under the APA after consultation with and concurrence by the Attorney General's Office. The regulations are essentially identical to the federal CCR rule.

A CCR distribution waiver for small waterworks (under 10,000 population), as allowed by the federal rule, was adopted into the *Waterworks Regulations*, and became effective on March 1, 2012. The distribution option selected is the sole discretion of the waterworks owner; the waterworks is not required to obtain pre-approval from ODW.

II. Timetable

A timetable for tasks to be conducted by the field office staff is presented below. These are intended to represent the minimum effort needed to effectively administer the regulations under the current drinking water program constraints.

Completion Date	Task
March 1	Send reminder letter to all community waterworks describing the distribution deadline and the certification statement deadline. Include new requirements / changes for new Rules, mandatory language, etc. and the Certification Statement form, if needed. (A revised template for the certification statement is attached to this memo.)
June 1	(Optional) Issue additional reminder (letter or phone call) to community waterworks that did not yet submit a draft or final CCR.
June 15	Review draft CCRs and inform owners of recommended changes.

September 1	Review final CCRs to determine major violations and issue NOV's for major violations.
September 1	(Optional) Issue reminder (letter or phone call) to community waterworks that did not yet submit the certification statement.
November 1	Record all major violations and return-to-compliance in SDWIS.
December 31	Send comment letter to community waterworks listing minor errors and omissions.

III. Major Procedural Points

- A. **ODW shall NOT prepare CCRs** for waterworks owners. The field office staff is expected to provide appropriate technical assistance to waterworks owners, especially new owners, so they fully understand the CCR requirements and are capable of preparing their own CCRs. Only in circumstances where the Field Office Director determines that preparation is the only viable alternative should ODW staff prepare draft CCRs for owners. This would require the concurrence of the Field Office Director, and shall not be performed for the owner in successive years.
- B. **Technical assistance** may include the following: preparing and mailing reminder letters; answering questions and explaining CCR requirements to the public and to waterworks owners and operators; interpreting and consolidating water quality data; reviewing and commenting on draft CCRs; and reviewing and commenting on final CCRs.
- C. **Compliance/enforcement** shall consist of issuing NOV's to waterworks owners for major violations and entering the appropriate data into SDWIS. A major violation is defined as:
- (i) CCR not distributed by the deadline;
 - (ii) CCR is grossly inadequate;
 - (iii) CCR is significantly deficient; or
 - (iv) CCR contains falsified information.

Examples are given in Section IV. The federal rule also requires state reporting of minor violations in SDWIS; however, ODW considers that to be extremely low priority and is not authorizing any staff resources to prepare minor violation NOV's or enter minor violation data into SDWIS.

D. **Project Tracking (PTLog), Time and activity accounting (Timetrac) and R&R**

Database tracking:

- (i) All time directly related to NOV issuance for major CCR violations and compliance data entry into SWDIS is recorded in Timetrac under the category "PERMITS/ENFORCEMENT", subcategory "NOV's, EAs:"
- (ii) All other CCR time is recorded in Timetrac under the category "TECHNICAL SERVICES", subcategory "Safe Drinking Water Act Reports".

- (iii) Draft and final CCRs are recorded as “SDWA Reports” in PTLog. Each draft CCR (counted only once per waterworks even if there are multiple drafts) and final CCR shall be counted as separate reports.
 - (iv) CCR data entry in “R&R” shall include 3 dates:
 - CCR copy received (in field office),
 - CCR distributed
 - CCR certification received (in field office)
- E. The ODW field offices must **maintain copies of CCRs** for a minimum of three years. Field offices must make every reasonable effort to accommodate requests from the public in accordance with the provisions of the Freedom of Information Act and good common sense.
- F. In addition to telling owners the required deadlines for CCR distribution and certification submittal, it is recommended that the **March reminder letter** request submittal of:
- (i) draft CCRs at least 30 days prior to the deadline to allow time for review and
 - (ii) CCR certification at the same time as the final CCR is submitted.
- G. EPA did not require VDH to develop specific guidelines on **state discretionary items** listed below. The Field Director will make decisions regarding these items, provide written documentation of his decision in the file, and decide when to refer the issue to ODW for decisions in unusual cases.
1. 40CFR §141.153(h)(1) allows the waterworks owner to use his own explanation of contaminants which may reasonably be expected to be found in drinking water in lieu of the required language when approved by the Commissioner. PWS owners should be strongly encouraged to use the EPA-supplied language.
 2. 40CFR §141.153(h)(3) specifies that the Commissioner determines which communities have a large proportion of non-English speaking residents. No "large proportion" criteria have been developed to determine that such communities exist, but some people have indicated that the "large proportion" threshold should be 10%. ODW will rely on the waterworks owner to determine the need for using foreign languages, except in those rare cases where it is obvious that a large proportion exists.
 3. 40CFR §141.154(b)(2), §141.154(c)(2) and §141.154(d)(2) allow the waterworks owner to use his own educational statements in lieu of the required language for arsenic, nitrate, and lead, respectively, when approved by the Commissioner. PWS owners should be strongly encouraged to use the EPA-supplied language.
 4. 40CFR §141.155(d) requires the owner to deliver the CCR to other agencies specified by the Commissioner. At this time no other agencies have been identified.

IV. Examples of Major Violations

- A. CCR distribution not started by July 1.

- B. CCR distribution started by July 1, but full distribution not completed within a reasonable time. (Since the regulations imply the entire distribution should be completed by July 1, we should not condone any completion date more than 30 days past the deadline.)
- C. CCR contains multiple minor errors or omissions that significantly diminish the report's effectiveness. (For example, omitting one contaminant from the table of detected contaminants may not be considered significant, even if accompanied by several minor errors in other parts of the report, but omitting two or more contaminants from the table probably would be significant enough to be called a major violation.)
- D. CCR omits all required information relating to an MCL or TT violation, even if the public notification requirements have been or are being met. (Complete omission of a monitoring/reporting violation would not be considered a major violation even if proper public notification had not been done.)
- E. CCR contains falsified information. (Some judgement will be necessary to differentiate between deliberate falsification and an unintended error or errors.)
- F. Failure to send ODW a copy of the final CCR by the July 1 deadline will not be considered a major violation provided the CCR was distributed (distribution to customers and good faith effort to reach other consumers) as required.

END OF MEMO

ATTACHMENTS:

1. Certification Statement

CONSUMER CONFIDENCE REPORT CERTIFICATION

Waterworks Name _____ PWSID No. _____

Instructions for completing this certification form:

- All systems must sign and date Part A and return the completed form to the VDH-Office of Drinking Water Field Office by October 1st to verify that CCR distribution was completed by July 1st.
- Systems serving 10,000 or more persons and systems serving fewer than 10,000 persons not electing to use a mailing waiver must fill out Parts B and D.
- Systems serving fewer than 10,000 persons electing to use a mailing waiver must fill out Part C.

Part A – I certify that the Consumer Confidence Report for calendar year _____ has been prepared and distributed in conformance with state and federal drinking water regulations governing consumer confidence reports. The distribution or publication was completed on the following date: _____.

Signature _____ Date _____

Title _____ Telephone _____

Part B – Systems serving 10,000 or more persons and systems serving fewer than 10,000 persons not electing to use a mailing waiver. Check all that apply.

- CCR distributed to customers by mail.
- CCR distributed to customers by direct delivery method other than mail. Describe: _____
- CCR posted on the Internet (required for systems serving 100,000 or more persons.)
- Good faith effort used to reach non-bill paying consumers (also complete Part C below).
- Good faith effort does not apply since all consumers receive water bills.
- CCR available to public upon request.

Part C – Systems serving fewer than 10,000 persons electing to use a mailing waiver. Check all that apply. *System to include a copy of the published report with this certification.*

- CCR published in its entirety in local newspaper.
Name: _____ Date: _____
- Customers informed in newspaper that CCR will not be mailed. If other method used to inform customers, describe:
 - separate newspaper notice mail
 - door-to-door posting
 - other method _____
- Customers and public informed in newspaper that CCR is available to public upon request.

Part D – Good faith effort to reach non-bill paying consumers. Check all that apply.

- posted CCR on Internet mailed CCR to postal patrons
- published CCR in local newspaper delivered CCR to community organizations
- advertised CCR availability in local news media posted CCR in public places - libraries, schools, community centers
- delivered multiple copies of CCR to single bill addresses serving multiple people
- other methods _____