



DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION *POLICY AND PROCEDURES*

NUMBER:	DWRP-03-001	
SUBJECT:	ADMINISTRATIVE FINES – MONITORING AND REPORTING VIOLATIONS	
EFFECTIVE DATE:	JUNE 19, 1997 (REV. #3 – 9/2001)	PAGE: 1 OF 5

ISSUE:

Monitoring and reporting requirements and drinking water standards are established for public water supplies under authority of the Michigan Safe Drinking Water Act, 1976 PA 399, as amended (Act 399), for the protection of public health. Administrative fines are established under 1998 PA 56 for those public water suppliers that fail to comply with monitoring and reporting requirements. The administrative fines are to be used as a tool for the Department of Environmental Quality (DEQ) and their authorized agents to promote compliance and meet regulatory enforcement responsibilities.

Suppliers shall be notified of their monitoring and reporting requirements, in writing, such as in a monitoring schedule. This notification should list the location(s) to be sampled, the specific parameters or groups of contaminants to be analyzed, the periodic reports, and the date(s) that the monitoring and reporting must be completed. This notification should also encourage water suppliers to complete required monitoring early in the monitoring period to avoid potential complications that could result in a monitoring violation.

Suppliers shall be assessed an administrative fine for:

- failing to meet monitoring requirements AND to report the results of monitoring;
- failing to issue public notice following a monitoring violation;
- failing to submit a periodic report (consumer confidence reports, annual water quality reports, and operation reports are subject to this policy); or
- submitting a fraudulent report or intentionally failing to report.

In order to reduce the number of violations and establish needed documentation for enforcement, the supplier shall be reminded of the monitoring requirement or report just prior to the deadline set for that system when the requirement is infrequent such as annual, once per three years, once per six years, etc.

DEFINITIONS:

Monitoring Period: A monitoring period is the period of time during which a sampling event or events are required. For annual or less frequent monitoring, deadlines should be established for submittal of results before the end of the monitoring period. This is necessary to minimize "federal" violations and balance tracking and laboratory work. For example, a water supplier on annual bacteriologic monitoring (January 1, 1994 to December 31, 1994) may be required to submit the sample by November 1, 1994. Likewise, a supplier may be assigned a "monitoring period" of January 1, 1994 through December 31, 1994 for a VOC sample that is federally required to be collected on a three-year cycle. In either case, failure to collect the sample by the state/local established date may result in a reminder or warning or state/local enforcement action including fines. Note, however, a violation is not reported to the federal reporting data system until the full monitoring cycle (one year or three years in the above examples) has expired and no sample has been collected.

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EFFECTIVE DATE: JUNE 19, 1997 (REV. #3 – 9/2001)

PAGE: 2 of 5

Reporting: Reporting required under Act 399, and applicable to this policy, includes the results of required sampling, public notices, consumer confidence reports, annual water quality reports, and operation reports.

Sampling Event: A single sampling event is considered to be required sampling during a specific monitoring period from either a single point of entry or a distribution system for a contaminant group, as indicated in Table 1, AND reporting the results of the sampling.

Examples of Single Sampling Events:

Total Coliform

Routine samples, repeat samples, and five routine samples the month following a positive sample (NOTE: The daily monitoring of turbidity at the filter confluence or daily chlorine residual in one month are considered single sampling events.)

Lead/Copper

Tap samples, source samples, water quality parameter samples, and follow-up samples

Phase II/V

Limited scan analysis group "Unit 37" (IOC, SOC, VOC)

POLICY:

General:

Monitoring and Reporting: Failure to collect all of the required samples in a sampling event AND to report the results of all the sampling constitutes a single "monitoring and reporting" violation.

Failure to submit a periodic report is a reporting violation. Periodic reports applicable to this policy are: consumer confidence reports, annual water quality reports, and monthly operation reports.

Suppliers that submit a fraudulent report or intentionally fail to report shall be assessed a \$400 administrative fine for systems serving 10,000 or fewer people or a \$1,000 administrative fine for systems serving more than 10,000 people.

Notifications and Reminders: Suppliers shall be notified of monitoring and reporting requirements, in writing, such as in an annual monitoring schedule. For events or reports required once per year or less frequently, if sample results have not been reported or a periodic report has not been submitted, a supplier shall be reminded, in writing, 30 to 90 days before the established deadline stating the upcoming deadline and that failure to meet this deadline will result in a monitoring and reporting violation and an administrative fine. For events or reports required more frequently than annually, a reminder is not necessary because the first violation in a 12-month running period results in a warning letter but no administrative fine.

Sampling Events or Periodic Reports Required Once Per Year or Less Frequently (i.e., Annually or Once Every Three, Six, or Nine Years):

Suppliers that fail to sample and report results or fail to submit a periodic report by the deadline shall be assessed a \$200 administrative fine for systems serving 10,000 or fewer people or a \$1,000 administrative fine for systems serving more than 10,000 people. When this administrative fine is assessed, the water supplier shall be given a new deadline to collect the required sample(s) or submit

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION
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SUBJECT: ADMINISTRATIVE FINES – MONITORING AND REPORTING VIOLATIONS

EFFECTIVE DATE: JUNE 19, 1997 (REV. #3 – 9/2001)

PAGE: 3 of 5

the periodic report. The new deadline should be timely but should give the supplier sufficient time to complete the task.

For sampling events: The supplier shall be given a date to issue public notice for failing to sample. Suppliers that fail to issue public notice by the deadline shall be assessed a \$200 administrative fine for systems serving 10,000 or fewer people or a \$1,000 administrative fine for systems serving more than 10,000 people and shall be given another new deadline to issue public notice.

Suppliers that fail to monitor by the new monitoring deadline or fail to issue public notice by the new public notice deadline shall be assessed:

- a \$400 administrative fine for each missed sampling event up to \$2,000, or a \$400 administrative fine for each failure to issue public notice up to \$2,000, or both, for systems serving 10,000 or fewer people; or
- a \$1,000 PER DAY administrative fine from the most recent deadline for each missed sampling event up to \$10,000, or a \$1,000 PER DAY administrative fine for each failure to issue public notice up to \$10,000, or both, for systems serving more than 10,000 people.

When a supplier fails to meet a monitoring deadline or fails to issue public notice, the DEQ or an authorized agent may arrange to collect and analyze required samples, issue public notice, and bill the supplier for this service.

For periodic reports: Suppliers that fail to submit the periodic report by the new deadline shall be assessed a \$400 administrative fine for each failure to submit up to \$2,000 for systems serving 10,000 or fewer people or a \$1,000 PER DAY administrative fine from the most recent deadline up to \$10,000 for systems serving more than 10,000 people.

Sampling Events or Periodic Reports Required More Frequently Than Once Per Year (i.e., Monthly, Quarterly, Weekly, or Daily Monitoring):

For sampling events: The first monitoring violation in a contaminant group in any 12-month period shall be followed by a written warning but shall not result in an administrative fine. The supplier shall be given a deadline to issue public notice. Suppliers that fail to issue public notice after the first monitoring violation in a 12-month period shall be assessed a \$200 administrative fine for systems serving 10,000 or fewer people or a \$1,000 administrative fine for systems serving more than 10,000 people.

If a second monitoring violation for the same contaminant group occurs within one year, suppliers shall be assessed a \$200 administrative fine for the missed sampling event for systems serving 10,000 or fewer people or a \$1,000 PER DAY administrative fine for systems serving more than 10,000 people.

A third or subsequent failure to monitor, or a second or subsequent failure to issue public notice, in the same contaminant group during a 12-month period shall result in:

- a \$400 administrative fine for each missed sampling event up to \$2,000, or a \$400 administrative fine for each failure to issue public notice up to \$2,000, or both, for systems serving 10,000 or fewer people; or

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION
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NUMBER: DWRP-03-001

SUBJECT: ADMINISTRATIVE FINES – MONITORING AND REPORTING VIOLATIONS

EFFECTIVE DATE: JUNE 19, 1997 (REV. #3 – 9/2001)

PAGE: 4 of 5

- a \$1,000 PER DAY administrative fine from the most recent deadline for each missed sampling event up to \$10,000, or a \$1,000 PER DAY administrative fine for each failure to issue public notice up to \$10,000, or both, for systems serving more than 10,000 people.

For periodic reports: The first failure to submit a periodic report in any 12-month period shall be followed by a written warning but shall not result in an administrative fine. Suppliers that fail to submit a periodic report a second time in a 12-month period shall be assessed a \$200 administrative fine for systems serving 10,000 or fewer people or a \$1,000 administrative fine for systems serving more than 10,000 people. Each additional failure to submit the periodic report that occurs during the 12-month period will result in a \$400 administrative fine up to \$2,000 for systems serving 10,000 or fewer people or a \$1,000 PER DAY administrative fine up to \$10,000 for systems serving more than 10,000 people.

Administrative Fine Determinations:

Administrative fine determinations are to be based upon the frequency of the required sampling, or frequency of the required reporting, using *either* “once per year or less frequently” *or* “more frequently than once per year” as indicated above. **Administrative fine determinations for violations in one contaminant group (Table 1) do not impact the amount of the administrative fines for violations in another group.** Similarly, administrative fine determinations for failure to submit a periodic report do not affect the amount of the administrative fine for failure to submit a different type of report.

Example: A supply serving 10,000 or fewer people is required to monitor for total coliform once per quarter and for nitrate once per year. The supplier fails to monitor for either contaminant. The DEQ directs the supplier to issue public notice for the total coliform monitoring violation and for the nitrate monitoring violation. The DEQ does not fine the supplier for the missed total coliform sampling because this was the first time in a 12-month running period that the supplier failed to monitor in the microbiologic contaminant group. The DEQ fines the supplier \$200 for the missed nitrate sampling and establishes a new date by which the sampling must be completed. The supplier fails to issue public notice for either violation and also fails to sample for nitrate by the new deadline. The DEQ fines the supplier \$200 for failing to issue public notice for the missed total coliform sampling, \$200 for failing to issue public notice for the missed nitrate sampling, and \$400 for the missed nitrate sampling by the new deadline set by the DEQ. The supplier samples for nitrate but still does not issue public notice for the missed nitrate sampling. The DEQ establishes a new date by which the supplier must issue public notice for the missed nitrate sampling event. The supplier fails to issue public notice, and the DEQ fines the supplier \$400. If the supplier continues to fail to issue public notice for the nitrate missed sampling, the DEQ may continue to levy fines of \$400 each time the DEQ sets a new deadline and the supplier fails to meet it, up to \$2,000.

Disputed Administrative Fines:

When administrative fines are assessed but disputed by the supplier, the supplier shall be given an opportunity to resolve the dispute with the DEQ. If the case is not resolved through informal means, the DEQ or its authorized agent will schedule a hearing to resolve the case as outlined in the Administrative Procedures Act, 1969 PA 306, as amended.

Ongoing Monitoring or Reporting Violations:

Formal enforcement actions against a supplier shall be pursued if the supplier repeatedly violates monitoring or reporting requirements despite efforts to curtail this through the notification process and assessment of administrative fines under this policy.

**DRINKING WATER AND RADIOLOGICAL PROTECTION DIVISION
POLICY AND PROCEDURES**

NUMBER: DWRP-03-001
SUBJECT: ADMINISTRATIVE FINES – MONITORING AND REPORTING VIOLATIONS
EFFECTIVE DATE: JUNE 19, 1997 (REV. #3 – 9/2001) **PAGE:** 5 of 5

Voiding an Administrative Fine:

An administrative fine may be voided before or after a requested hearing, with supporting documentation, if:

1. The supplier produces documentation that the report was submitted when required, such as providing a certified mail receipt.
2. The sample was collected but could not be accurately analyzed due to either a sample transit problem or laboratory error.
3. Due to a change in ownership, the new owner was not notified of the monitoring or reporting requirements.
4. The supplier was unable to meet the monitoring or reporting requirements due to compelling reasons or extenuating circumstances beyond the reasonable control of the supplier, for which documentation is provided to the DEQ and found to be satisfactory by the Section Chief in the Field Operations Section, the Ground Water Supply Section, or the Environmental Health Section or the Environmental Health Director for local health jurisdictions under contract with the DEQ.

PROCEDURE:

Responsibility

DEQ Employee, or the local health department personnel for the Noncommunity Program

Administration Section

Section Chief

Action

1. Notifies the supplier, in writing, of the monitoring and reporting requirements and sends a reminder 30-90 days before the deadline, if appropriate. Determines a violation has occurred and sends a warning letter, if appropriate. Completes a request for an invoice and submits it to the Administration Section with the appropriate documentation.
2. Creates the invoice for the administrative fine and mails it with the documentation.
3. Coordinates disputed administrative fines and requests for a hearing.
4. Serves as the final decision point for voiding administrative fines.

APPROVED: _____

Flint C. Watt
Flint C. Watt, P.E., Chief
Drinking Water and Radiological Protection Division

DATE: _____

9/11/01

Table 1: Contaminant Groups

<i>Microbial Group</i>	<u>TTHM Maximum Formation Potential</u>	<u>Expanded SOC</u>
<u>Bacteria</u>	Chloroform	Dalapon
Total coliform	Dibromochloromethane	Dibromochloropropane (DBCP)
Fecal coliform	Bromodichloromethane	Diquat
<i>E. Coli</i>	Bromoform	Endothall
		Ethylene dibromide (EDB)
		Glyphosate
<i>Surface Water Treatment Group</i>	<u>VOC</u>	<u>Polynuclear Aromatics</u>
<u>Chlorine Residual</u>	Benzene	Benzo(a)pyrene
Free chlorine	Carbon tetrachloride	Di(2-ethylhexyl)adipate
Total chlorine	o-dichlorobenzene	Di(2-ethylhexyl)phthalate
	Para-dichlorobenzene	
	1,2-dichloroethane	
<u>Turbidity</u>	1,1-dichloroethylene	<u>Dioxin</u>
	Cis-1,2-dichloroethylene	2,3,7,8-TCDD
<u>"C*T" Determination</u>	Trans-1,2-dichloroethylene	
	Dichloromethane	
	1,2-dichloropropane	<i>Radiologic Group</i>
<i>Chemical Group</i>	Ethylbenzene	<u>Natural Radioactivity</u>
<u>Asbestos</u>	Monochlorobenzene	Gross alpha
	Styrene	Radium-226
	Tetrachloroethylene	Radium-228
<u>Cyanide</u>	Toluene	
	1,2,4-trichlorobenzene	<u>Man Made Radioactivity</u>
<u>Partial Chemistry</u>	1,1,1-trichloroethane	Gross beta
Fluoride	1,1,2-trichloroethane	Tritium
Nitrate	Trichloroethylene	Strontium-90
Nitrite	Xylenes (total)	
Total nitrate & nitrite	Vinyl chloride	
Sodium		
	<u>Limited SOC</u>	
<u>Limited Metals</u>	Alachlor	<i>Lead/Copper Group</i>
Antimony	Aldicarb	<u>Lead & Copper</u>
Beryllium	Aldicarb sulfoxide	Lead
Nickel	Aldicarb sulfone	Copper
Thallium	Atrazine	
	Carbofuran	<u>Corrosion Control</u>
	Chlordane	pH
<u>Complete Metals</u>	Dinoseb	Alkalinity
Includes "Limited Metals" plus:	Endrin	Calcium
Arsenic	Heptachlor	Conductivity
Barium	Heptachlor epoxide	Temperature
Cadmium	Hexachlorobenzene	Orthophosphate
Chromium	Hexachlorocyclopentadiene	Silica
Mercury	Lindane	
Selenium	Methoxychlor	
	Oxamyl (vydate)	
<u>Total Trihalomethanes (TTHM)</u>	Pentachlorophenol	
Chloroform	Picloram	
Dibromochloromethane	Polychlorinated biphenols	
Bromodichloromethane	Simazine	
Bromoform	Toxaphene	
	2,4-D	
	2,4,5-TP silvex	