

**Tier 1 Public Notice for Lead Action Level Exceedances Template SOP for State Implementation Programs[[1]](#footnote-2)**

Office of Water (4606M)

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**Disclaimer**

This document is intended as non-binding guidance for States with primacy or interim for the LCRR, as well as States with primacy for public water systems that have extension agreements for LCRR primacy, which includes primacy for changes made to the Public Notification requirements in 40 C.F.R. Part 141, subpart Q. Because they are recommendations, and not legally binding requirements, States retain the discretion to follow the recommendations for developing a different Standard Operating Procedure and/or template or adopt different approaches than those described in this document.

This guidance document includes descriptions of statutory and regulatory requirements applicable to water systems and requirements applicable to States with primacy for LCRR and the Public Notification Rule, as well as States with extension agreements to the extent those agreements include commitments consistent with these requirements. Although EPA has made every effort to ensure the accuracy of the discussion in this document, the legally binding requirements applicable to public water systems and States are determined by statutes and regulations. In the event of a conflict between the discussion in this document and any applicable statute or regulation, this document would not be controlling. This document is not a regulation itself, nor does it change or substitute for those provisions and regulations. This document does not confer legal rights or impose legal obligations upon any member of the public, state, or public water system. This is a living document which EPA may revise at any time. EPA welcomes comment on this document at any time. Please send comments to [LCRR@epa.gov](https://usepa.sharepoint.com/sites/HQLCRImplementationTeam/Shared%20Documents/General/LCRR/Pb%20ALE%20Tier%201%20PN/Tier%201%20PN%20State%20SOP%20Template/LCRR@epa.gov).

# Acronym List

ALE Action Level Exceedance

CWS Community Water System

LCR Lead and Copper Rule

LCRI Lead and Copper Rule Improvements

LCRR Lead and Copper Rule Revisions

MCL Maximum Contaminant Level

MRDL Maximum Residual Disinfectant Level

NTNCWS Non-Transient Non-Community Water System

PN Public Notice

PN Rule Public Notification Rule

PWS Public Water Systems

SOP Standard Operating Procedure

TA Technical Assistance

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# Introduction and Purpose

This recommended Standard Operating Procedure (SOP) template provides guidance for developing processes to ensure public water systems (PWS) issue Tier 1 Public Notice (PN) following a lead action level exceedance (ALE). It is intended as a resource for State[[2]](#footnote-3) Implementation Public Water System Supervision (PWSS) programs – referred to in this SOP as “States” - with primacy or interim primacy for these Public Notification Requirements. It is also intended as for States with LCRR primacy extension agreements that include commitments to support EPA’s direct implementation of these requirements. This SOP template provides information on roles, responsibilities, and procedures of PWSs, States, and the EPA, including proactive measures that could be taken, process charts, descriptions detailing key steps in the lead ALE Tier 1 PN process, and other outreach materials. Terms used in the document are defined in 40 CFR [§141.2](https://www.ecfr.gov/on/2020-07-01/title-40/section-141.2). For additional information and resources for the Public Notification Rule, see <https://www.epa.gov/dwreginfo/public-notification-rule> and EPA’s Revised State Implementation Guidance for the Public Notification (PN) Rule (March 2023), see [Revised State Implementation Guidance for the Public Notification (PN) Rule](https://www.epa.gov/system/files/documents/2023-05/Revised%20State%20IG%20for%20the%20PN%20Rule_508_March%202023.pdf)

Blue text boxes (such as below) are provided throughout the document and are meant to be suggestions for States to consider when customizing the recommended SOP.

***Suggestions for States to Consider when Customizing the SOP.***

This recommended SOP template is a customizable blueprint to help States with primacy for the Public Notification Rule requirements promulgated with the LCRR to develop step-by-step processes to fully implement their responsibilities. This is also for States with LCRR primacy extension agreements using existing PN regulations to carry out any commitments made in the extension agreements in support of the Tier 1 PN requirement for lead ALEs. The EPA encourages States to develop this template, for their own SOP to capture local procedures that reflect roles and capacities of States, water systems, and EPA (if applicable). The recommended SOP is intended as a resource for States to plan implementation of Tier 1 PN for lead ALEs.

# Template Sections

## Section 1: Background

The U.S. Environmental Protection Agency (EPA) published the [final Lead and Copper Rule Revisions (LCRR)](https://www.federalregister.gov/documents/2021/06/16/2021-12600/national-primary-drinking-water-regulations-lead-and-copper-rule-revisions-delay-of-effective-and) on January 15, 2021 and in a subsequent rulemaking extended the compliance date of the LCRR to October 16, 2024 in light of the EPA’s decision to revise the LCRR. On October 8, 2024, the Administrator of EPA signed a new regulation, the Lead and Copper Rule Improvements (LCRI) to better protect communities from exposure to lead in drinking water.

As EPA has projected in numerous Federal Register Notices, other publicly available documents, and public meetings the LCRI retained certain requirements that were promulgated in the 2021 LCRR, including the requirement to provide Tier 1 PN to consumers in the event of a lead ALE [§ 141.202 table 1, item 10]. PWSs[[3]](#footnote-4) must issue PN within 24 hours after the PWS becomes aware of the lead ALE [141.202(b)(1))]. If the PWS fails to issue the PN within 24 hours of becoming aware of the lead ALE, the PWS receives a violation [§ 141.202]. Additionally, if the PWS has not issued a Tier 1 PN for a lead ALE, “not later than 24 hours after the Administrator is notified of the exceedance, the Administrator shall issue the required notice” [SDWA 1414(c)(2)(D)].[[4]](#footnote-5) On April 11, 2024[[5]](#footnote-6), the EPA encouraged primacy agencies to consider their existing authorities under the PN Rule to implement the Tier 1 PN for a lead ALE prior to October 16, 2024.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*States may insert information specific to their State, such as:*

* *Any existing PN state rule requirements and guidance that apply for issuing Tier 1 PN.*
* *Any provisions in LCRR primacy extension agreements relevant to implementation of the PN Rule requirements promulgated with the LCRR.*

## 

## Section 2: Applicability, Responsibilities, Approvals

This section describes applicability, responsibilities, and approvals when implementing the Tier 1 PN for lead ALEs, including roles of key staff members, contact information, and other details related to the SOP.

PWSs are responsible for meeting all applicable PN Rule requirements. States with primacy for all applicable PN rule requirements must have statutory or regulatory enforcement authority adequate to compel compliance with the State drinking water regulations, including authority to require public water systems to comply with state public notification requirements no less stringent than the PN Rule requirements in 40 C.F.R. Part 141, Subpart Q, and authority to assess civil and criminal penalties for violations of the State’s PN requirements. Under the 2021 LCRR revisions of the PN Rule, PWSs must notify persons they serve within 24 hours of learning of the ALE. States with primacy for the 2000 PN rule, can provide notice on behalf of PWSs [§ 141.210], and EPA recommends those states consider providing the PN if the PWS has not issued a Tier 1 PN for an exceedance of the lead action level. If neither the PWS nor the State[[6]](#footnote-7) issues the required PN, “not later than 24 hours after EPA is notified of the exceedance, EPA shall issue the required notice” [SDWA Section 1414(c)(2)(D)].

## Section 3: Planning for Successful Tier 1 Public Notice

This section describes planning considerations for implementation of the new Tier 1 PN requirements for a lead ALE, including considerations for starting the Tier 1 PN process, developing system-specific plans for Tier 1 PN, preparing to respond if a PWS does not issue a Tier 1 PN, and coordination with various entities to support broad distribution of the PN (e.g., sharing resources, communicating the requirements).

***Suggestions for States to Consider when Customizing the recommended SOP.***

*States should identify a communications and outreach strategy to support broad distribution of the PN, as well as plan to support PWSs in a number of ways, including:*

* *Providing education on Tier 1 PN requirements for a lead ALE,*
* *Developing a plan for issuing Tier 1 PN,*
* *Affirm existing processes for calculation of the 90th percentile and ALEs according to the pre-2021 LCR, codified July 1, 2020. Systems must use the LCR calculation and sample collection practices while they prepare for the LCRI calculation method and sample collection methods.*
* *Delivering the lead ALE Tier 1 PN,*
* *Carrying out other lead ALE response activities as needed,*
* *Leveraging technical assistance providers and existing local community organizations, and*
* *Obtaining funding to support lead ALE Tier 1 PN compliance-related activities.*

#### **Evaluating Lead Sampling Results**

Water systems must provide public notification as soon as practical but no more than 24 hours after learning of the lead ALE. In response to questions about when EPA intended the 24-hour clock to begin when the EPA promulgated the 2000 PN Rule, the EPA wrote:

EPA wants to reaffirm the language in the proposal: “\* \* \* as soon as possible but no later than 24 hours after the system learns of the violation.’’ EPA believes it is important to hold the PWS responsible for learning about a violation and the actions it is required to take. Accounting in the rule for every way in which a system could learn of a violation would make the rule overly complicated. EPA wishes to restate that the trigger point for notification is when the system learns that the violation has occurred, not at the point when a system expects that a violation will occur (e.g., when the presence of coliform is discovered, and the system is awaiting the results of a confirmation sample). If systems use an independent laboratory, this means that the 24-hour clock starts when the laboratory reports to the public water system the analytical results that indicate a violation has occurred. To get the notice out as soon as practical but no later than 24 hours, EPA encourages systems to ‘‘gear up’’ in advance for preparing a notice. EPA recommends that public water systems review the public notification requirements for each violation type and develop a fill-in-the-blank Tier 1 notice based on the templates to be issued with the final Public Notification Handbook.

Consistent with this longstanding guidance on implementation of Tier 1 notices for contaminants other than lead, it is important to hold PWSs responsible for learning about an action level exceedance. The PWS may learn that there is an exceedance in a variety of ways, but in any case, the trigger point for notification is when the system “learns of the … exceedance” as that is the statutory and regulatory requirement. This may be when a system receives the results, or it may be later, when the 90th percentile level is calculated and compared to the action level. For example, if the system receives the results from the laboratory and it is readily apparent that the 90th percentile will exceed 15 ppb, the system will have learned of the ALE when it receives the results, even if the 90th percentile has not been calculated. In the interest of protecting public health, EPA encourages systems and states to analyze samples and determine whether there is an action level exceedance as quickly as possible in order to comply with the statutory directive to “distribute[] as soon as practicable, but not later than 24 hours, after the system learns of the … exceedance” the notification of the ALE and associated information to help reduce exposure to lead in drinking water.

This subsection describes current practices for processing sampling results (i.e., how sample results are received and calculated) and how data are managed and documented. EPA strongly encourages States to work with water systems and be more proactive in trying to identify systems likely to have exceedances, based on historical sample results and other information available to the states.

Note: The Federal Lead and Copper Rule (LCR, as of July 1, 2020) requires PWSs to report the 90th percentile lead and copper concentrations from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with § 141.80(c)(3)) (July 1, 2020), unless the primacy agency calculates the PWS's 90th percentiles of lead and copper levels [§ 141.90(a)(1)(iv) (July 1, 2020)]. If the primacy agency calculates the 90th percentile, the water system is still responsible for providing or ensuring reporting of all sample results to the primacy agency no later than 10 days after the end of the monitoring period. The primacy agency is then responsible for providing the 90th percentile results in writing to the water system within 15 days after the end of the monitoring period [§ 141.90(h)]. In cases where laboratories are reporting results directly to the State, the water system is still responsible for ensuring this is done within 10 days after the end of the monitoring period. Reporting requirement deadlines should not be used to postpone when a system “learns of” the ALE.

#### **PWS Specific Plans to Issue Tier 1 Public Notice for a Lead ALE**

The EPA recommends that States use this part of the example template to encourage PWSs to develop internal planning tools in preparation for issuing Lead Tier 1 PN (see [*Revised Public Notification Handbook*](https://www.epa.gov/system/files/documents/2023-05/CWS_NTNC%20PN%20Handbook_508_March%202023.pdf), section 4 Making Public Notification Work – Plan in Advance). PWSs should know what their role is, their plan to issue PN, and how to manage communication responsibilities with States and the EPA. This subsection describes how PWSs could respond to a lead ALE, including understanding when a lead ALE PN is required, the PWSs specific actions to take, as well as identifying appropriate PN delivery methods. Additionally, this subsection describes the State’s roles and responsibilities when supporting the PWS implementing the Tier 1 PN consistent with their role as the primacy agency (see [*Revised State Implementation Guidance for the Public Notification (PN) Rule*](https://www.epa.gov/system/files/documents/2023-05/Revised%20State%20IG%20for%20the%20PN%20Rule_508_March%202023.pdf), section 5.1.3) or commitments made in their primacy extension agreements. Sharing detailed plans with States and EPA regions that include contacts associated with delivery methods, while not required by EPA rules, may be helpful if the PWS fails to issue the notice and the responsibility falls to the State or the EPA.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*This space can be used by States to insert information about how data is transferred from laboratories to PWSs and States. This could include specific procedures and considerations, such as:*

* ***Receiving sampling results -*** *Describing when and how both PWSs and States receive sampling results is a key factor to consider in implementing the Tier 1 PN requirement for lead.*
* ***Communicating best practices to water systems -*** *For situations where laboratory capacity is limited, especially when laboratories provide results directly to the State, consider how to communicate best practices to water systems to ensure timely release of notifications. Best practices may include establishing plans to complete sampling as soon as practical in a monitoring period to ensure the laboratories analyze all results and States receive these results in a timely manner.*
* ***Calculating the 90th percentile lead level –*** *Describing how States, as primacy agencies, calculate the 90th percentile for the PWS for which they calculate 90th percentiles (i.e., in the case that the State receives sampling results from laboratories and/or from the PWS).*
* ***Using the Compliance Monitoring Data Portal*** *– States that use the Compliance Monitoring Data Portal (CMDP) to receive compliance data electronically from laboratories could describe such procedures in the recommended SOP. States that do not use CMDP could consider doing so, since it allows States to receive sampling results sooner, automates SDWIS reporting, provides support to PWSs in identifying lead ALEs, and can further assist States in meeting Tier 1 PN requirements.*
* ***Detailing Data Management Considerations -*** *There are several data management issues for States to consider and prepare for related to the entry of lead sample results into SDWIS State or other State reporting databases. These include calculating the 90th percentile, generating monitoring schedules, flagging lead ALEs, and issuing and tracking of Tier 1 PN as well as the associated violations.*

***Status of Data Systems -*** *SDWIS State 3.7 and SDWIS FedRep 3.91 provide added features and reporting codes to support the new requirements. Comprehensive instructions are provided in the* [*LCRR Data Entry Instructions*](https://usepa.servicenowservices.com/sdwisprogram/en/lead-and-copper-rule-revisions-lcrr-dei?id=kb_article&sys_id=357abd711bca6198fd044262f54bcbad)*.*

#### **Response Plan to Issue Tier 1 Public Notice if the PWSs Do Not Issue PN**

While the PN rule does not require a State to provide PN on behalf of a system, developing a response plan for the State to issue Tier 1 PN for a lead ALE if the PWS has not is critical for successful implementation. This subsection describes the actions the State would take to issue a lead ALE, including understanding when a lead ALE occurs, when the State or the EPA should take action, as well as identifying appropriate PN delivery methods.

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***Suggestions for States to Consider when Customizing the recommended SOP.***

*In consultation with appropriate stakeholders (e.g., Public Affairs Offices, TA Providers, Media Outlets, etc.), a best practice for States is developing a thorough response plan with their EPA Region in the event a PWS does not issue the Tier 1 PN for a lead ALE.*

*In addition to relevant suggestions in* ***PWS Specific Plans to Issue Tier 1 Public Notice****, a State response plan could include:*

* *Details of when and how States will issue Tier 1 PN on behalf of the PWS,*
* *Communications and outreach strategy to support broad distribution of the PN*
* *Templates/Materials that may be tailored to the situation (e.g., posting at a public place),*
* *Delivery methods that will be used, and/or*
* *Who in the State is responsible for coordinating this step.*

*It is important to provide translation access, especially for vital documents. States may have access to translation services.*

#### **Outreach, Education, and Training**

This subsection details States plans and resources for providing sufficient outreach, education, and training to support successful implementation of the Tier 1 PN for a lead ALE.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*In addition to existing public education and consumer notice requirements, a best practice for States is considering specific training and outreach options for issuing PN at PWSs.*

*This section may include:*

* *Details on how the State will perform outreach to PWSs on the requirements,*
* *Links to educational materials and relevant resources on risks associated with a lead ALE, and/or*
* *Details on how the State will conduct trainings for implementation of Tier 1 PN of a lead ALE.*

#### **Additional Resources and Links**

* The lead ALE Tier 1 Public Notification Template as well as other Lead and Copper Rule Implementation Tools can be found here: <https://www.epa.gov/dwreginfo/lead-and-copper-rule-implementation-tools>
* Public Notification Rule: <https://www.epa.gov/dwreginfo/public-notification-rule>
  + [Revised State Implementation Guidance for the Public Notification (PN) Rule, EPA 816-R-23-003 (March 2023)](https://www.epa.gov/system/files/documents/2023-05/Revised%20State%20IG%20for%20the%20PN%20Rule_508_March%202023.pdf)
  + [Revised Public Notification Handbook, 3rd Revision of Document: EPA 816-R-23-002 (March 2023)](https://www.epa.gov/system/files/documents/2023-05/CWS_NTNC%20PN%20Handbook_508_March%202023.pdf)

## Section 4: Steps for Adhering to the Lead ALE Tier 1 PN Requirements

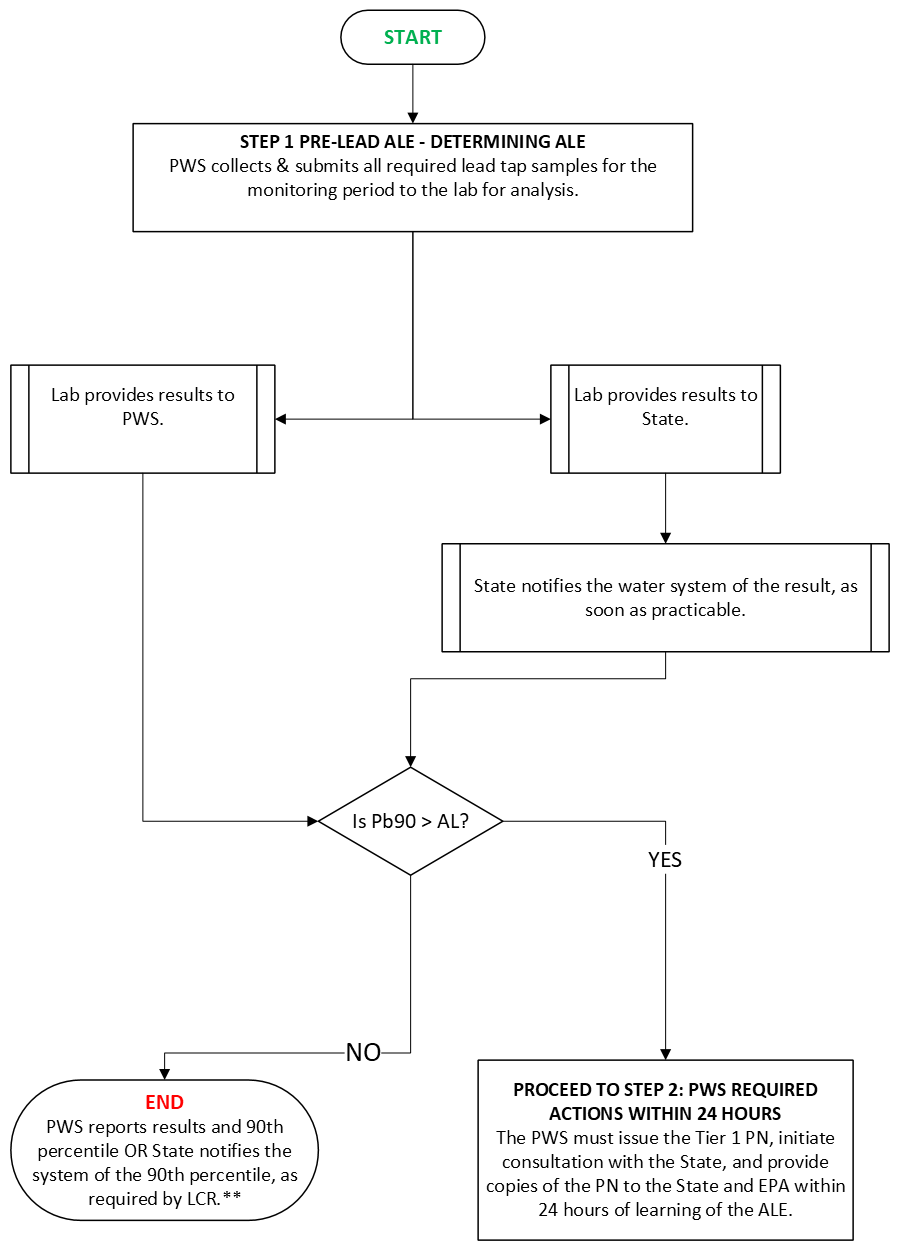
This section details procedures for completing the required Tier 1 PN in a five-step process, after reviewing planning considerations for a Tier 1 PN outlined in Section 3. Step 1 outlines the pre-ALE procedures needed to determine if there has been a lead ALE. Step 2 outlines the process from a PWS becoming aware of an ALE to the PWS issuance of the Tier 1 PN for the lead ALE (Step 2a focuses on the PWS-State consultation requirement and Step 2b focuses on the issuance of the Tier 1 PN). Step 3 outlines the process for States or the EPA to issue the Tier 1 PN in the case that the PWS fails to do so. Step 4 describes the certification and reporting after providing the Tier 1 PN. Step 5 provides information on actions after Tier 1 PN issuance. The subsections are listed here:

* Step 1 – Pre-ALE – Determining an ALE
* Step 2 – Required PWS Actions Within 24 Hours After a Lead ALE
* Step 2A – PWS Issues Tier 1 Public Notice for a Lead ALE
* Step 2B – PWS Consultation with State
* Step 2C – Provide a copy of the notice to State and the EPA
* Step 3 – PN Certification
* Step 4 – EPA Issues Tier 1 Public Notice for a Lead ALE when PWS Does Not
* Step 5 – Follow up Actions

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### Step 1: Pre-Lead ALE – Determining an ALE

As described above, either the PWS or State may calculate the 90th percentile lead level.

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***Figure 1*** details steps involved for determining if a lead ALE has occurred depending on which entity calculates the 90th percentile.

A PWS is required to provide Tier 1 public notice as soon as practicable, but not later than 24 hours after the system learns of an action level exceedance and that may occur prior to the calculation of a 90th percentile. However, the latest point in time that a system learns of an action level exceedance is when all the sample results are submitted and the 90th percentile is calculated.[[7]](#footnote-8) If the preliminary results indicate likely ALE, the State may opt to contact the PWS prior to the end of the monitoring period to begin preparations for required actions following an ALE.

**If the PWS first learns of an ALE when it calculates the 90th percentile as an ALE**, in addition to providing the Tier 1 PN, the PWS must initiate consultation with the State (See **Step 2A**) within 24 hours and discuss additional PN requirements, such as posting the notice or if repeat notices may be needed.

**If the State calculates the 90th percentile and learns of the ALE before the water system**, the State should inform the PWS as soon as practicable, but no later than 15 days after the end of the monitoring period [§ 141.90(h)]. The PWS must issue the PN as soon as practicable, but not later than 24 hours after the system learns of an action level exceedance from the State and initiate consultation with State (See **Step 2A**) to discuss if there are any other PN requirements, including directions for posting or repeat notices.

***Suggestions for States to consider when customizing the recommended SOP.***

*In determining procedures prior to a lead ALE, States could consider:*

* *Adding or creating procedures related to the process for receiving and recording sample results. Could also add a reference to an existing policy or procedures.*
* *Adding or creating procedures related to providing guidance to PWSs with ALE prior to the end of the monitoring period. Could also add a reference to an existing policy or procedures.*
* *Adding or creating procedures for when the State contacts the system (e.g., this contact from State is usually via a phone call to the contacts on record or an email to the contacts on record followed up by a phone call if the water system fails to respond to the email).*
* *Specifying who in the State is responsible for this step.*
* *Note: The EPA encourages reaching out if early lead sampling results indicate the possibility of an ALE so the PWS can prepare by calculating 90th percentile initially when the required number of sample results is received, before the end of the monitoring period, and encouraging preparation for PN or early issuance of PN.*

### Step 2: Required PWS Actions Within 24 Hours After Learning of a Lead ALE

Upon learning of a lead ALE, a PWS must take several parallel actions within 24 hours. This section describes each of the actions:

* Issuing the Tier 1 PN to persons they serve.
* Initiating consultation with their State.
* Providing a copy of the notice to their State and the EPA.

Figure 2

Step 2 Actions within 24 hours of the ALE to issuance of the Tier 1 PN. 

***Figure 2*** shows the simultaneous actions the PWS must take, within 24 hours, from the time when it learns of the lead ALE including to consult with the State, issue the PN, and provide a copy of the PN to the State and the EPA. The EPA has set up an email inbox to send copies of Tier 1 PNs to the EPA at [LeadALE@EPA.gov](mailto:LeadALE@EPA.gov) (see Step 2C below).

#### **Step 2A: PWS Issues Tier 1 Public Notice for a Lead ALE**

This section details the procedures from when the water system learns of a lead ALE to when the PWS issues the Tier 1 PN.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*In determining procedures for the PWS issuing a Tier 1 PN, States could consider:*

* *Adding or creating procedures related to the process of determining and documenting issuing the Tier 1 PN. The State could also add a reference to any existing policy or procedures.*
* *Adding or creating procedures related to the process of contacting the PWS to inform them of the lead ALE. The State could also add a reference to existing procedures.*
* *Adding or creating procedures for when the State contacts the system.*
* *Documenting procedures for providing the EPA a copy of the notice within 24 hours.*
* *Specifying who in the State is responsible for each step.*

States could work with PWSs in advance to prepare template(s) for Tier 1 PN for a lead ALE, as well as to develop a written process for issuance and plan of action. These resources could be referenced during consultative discussions with the PWS.

#### **Step 2B: PWS Consultation with State**

In addition to issuing public notice, the PWS must initiate consultation with the State as soon as practical but within 24 hours after learning of the lead ALE [§ 141.202(b)(2)]. During the consultation, States may determine additional PN requirements, such as duration of posted notices and/or whether repeat notices are needed as well as frequency, content, and delivery method(s) of the repeat notices (if any).

Initiating consultation means that at a minimum, the PWS has taken steps to contact their State. States have 24-hour phone numbers staffed by drinking water or general emergency response personnel that PWSs may contact after hours and on weekends. If the PWS is not able to reach the State within the 24-hour period, the PWS must still issue public notice within that timeframe. When consultation does occur, the State may inform the PWS of any additional steps they must take as a follow-up to the initial notice. The PWS must comply with any additional requirements established as a result of the consultation [141.202((b)(3)].

***Suggestions for States to Consider when Customizing the recommended SOP.***

*In determining procedures for consultation, States could consider:*

1. *Adding, creating, or revising procedures related to determining protocols for consultations. For example, identifying points of contact, procedures for contacting the State outside of normal business hours, or what information to provide the State if the system is unable to consult with the agency within the 24-hour period.*
2. *Specifying who in the State is responsible for each step.*

#### **Step 2C: Provide a copy of the notice to the State and the EPA**

For Tier 1 notices for a lead ALE, PWSs must provide a copy of the notice to the Administrator of EPA or his delegee and the head of the State primacy agency as soon as practicable, but not later than 24 hours after the PWS learns of the exceedance [§ 141.31(d)(2)]. States may have processes in place for PWSs to provide copies of public notices as part of their implementation and oversight of the PN Rule. The EPA has set up the email inbox [LeadALE@epa.gov](mailto:LeadALE@epa.gov) to provide copies of the notice to the Administrator or his delegee. The EPA will monitor this inbox to compare with SDWIS Fed reported lead ALEs. PWSs are responsible for meeting the requirements of the PN Rule. The EPA is aware of PWSs that do not use email where States will need to work out the reporting with their EPA regional contacts.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*In determining procedures for providing copies of the notice to the EPA, States could consider:*

1. *Identifying existing or creating new reporting procedures for PWSs to provide a copy of the notice to the State and the EPA within 24 hours.*
2. *Specifying State and the EPA regional contacts that will coordinate the response.*

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### Step 3: PN Certification

After issuing Tier 1 PN, there are additional activities that must be carried out by PWSs and States. Steps following Tier 1 PN issuance from a PWS stage are included in **Figure 3 (below)**.

Within 10 days of completing the Tier 1 PN for the initial and any repeat notices, PWSs must submit a certification to the State that they have fully complied with EPA’s public notification regulations [§ 141.31(d)(1)].

States verify that the Tier 1 PN issuance was done in accordance with all requirements. The State documents in their database of record that PN requirements have been/have not been met. Note, that according to [40 CFR § 141.210(b)](https://www.ecfr.gov/current/title-40/part-141#p-141.210(b)), if the State issues PN on behalf of the PWS, the PWS is still responsible for ensuring PN requirements are met.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*In determining procedures for the verifying and certifying a Tier 1 PN for a lead ALE, States could consider:*

* *Adding or creating procedures related to the process of verifying Tier 1 PN was properly completed. The State could also add a reference to an existing policy or procedures.*
* *Adding or creating procedures related to the key processes which are part of the pre-developed plan of action. The State could also add a reference to an existing policy or procedures.*
* *Documenting procedures with the EPA regions for ensuring that PWSs provide a copy of the PN to the EPA within 24 hours via* [*LeadALE@epa.gov*](mailto:LeadALE@epa.gov)*.*
* *Specifying who in the State is responsible for each step.*

**Figure 3

Procedures following Tier 1 PN issuance, including confirmation that PN was completed, violations, repeat notices, and data management.**

**Figure 3**. This figure shows procedures following Tier 1 PN issuance, including confirmation that PN 0was completed, violations, repeat notices, and data management.

### Step 4: EPA Issues Tier 1 Public Notice for a Lead ALE when PWS Does Not

If the PWS has not issued a Tier 1 PN for a lead ALE, not later than 24 hours after the EPA is notified of the exceedance, the EPA will issue a notice of the ALE [SDWA Section 1414(c)(2)(D)]. The EPA will compare lead ALEs that do not have corresponding PN sent to the [LeadALE@epa.gov](mailto:LeadALE@epa.gov) inbox.

The EPA will also contact the State to ensure that the PWS or the State, on behalf of the PWS, conducts follow-up notice to the water system’s customers. Figure **4 (below)** details this process.

***Suggestions for States to Consider when Customizing the recommended SOP.***

*In determining procedures for the State issuing a Tier 1 PN on behalf of a PWS, States could consider:*

* *Adding or creating procedures related to the process of State contacting the PWS to inform them of the ALE. The State could also add a reference to any existing procedures.*
* *Adding or creating protocols related to the process of determining, issuing, and documenting States issuing the Tier 1 PN. The State could also add a reference to an existing policy or procedures.*
* *Adding or creating procedures following State Issuance of the Tier 1 PN.*
* *Specifying who in the State is responsible for each step and EPA Regional contacts.*

*As was noted in* ***Section 0*** *of this document, States could work with their EPA Region to develop a response plan for issuing Tier 1 PN, on behalf of PWSs, which can include templates, delivery methods, etc.*

Figure 4

Step 4- EPA becomes aware that there was a lead ALE and that the PWS did not issue a PN within 24 hours of the PWS becoming aware of the ALE. 


***Figure 4.***This figure shows when EPA becomes aware that there was a lead ALE and that the PWS did not issue a PN within 24 hours of the PWS becoming aware of the ALE. Step 5: Follow Up Actions

It is important to have detailed follow up steps to a lead ALE and the associated Tier 1 PN. This subsection includes procedures on properly documenting the Tier 1 PN for a lead ALE, explaining next steps and additional procedures, such as those for additional requirements and violations.

**Public Notice Violations**

The State, if it has primacy, or EPA in States without primacy for the PN Rule provisions promulgated with the LCRR, will issue a PN violation to the PWS if the system fails to do the following:

* Issue Tier 1 PN (or delivers the notice after 24 hours of becoming aware of the lead ALE),
* Send copies of PN to the State and the EPA within 24 hours of becoming aware of the lead ALE,
* Meet content requirements of Tier 1 PN,
* Send copy of certification to the State within 10 days of issuance, or
* Comply with requirements for additional PN requirements, including posting or repeat notices (as determined by State).

***Suggestions for States to Consider when Customizing the recommended SOP***

*In determining procedures for follow up actions of a Tier 1 PN for a lead ALE, States could consider:*

*Documenting specifics of the situation,*

* + *Length of ALE and when/how it will be resolved,*
  + *Delivery method(s) used for the initial PN, and*
  + *Corrective actions taken/planned to be taken by the PWS.*
* *Detailing how States will continue to monitor the situation,*
* *Describing any additional requirements such as posting and repeat notices,*
* *Adding, creating, or revising procedures related to additional requirements,*
* *Specifying current policies and procedures followed by the State,*
* *Specifying who in the State is responsible for each portion of this step,*
* *Detailing any follow up needs such as coordination with Technical Assistance Providers,*
* *Communicating specifics of the situation with the EPA.*

*In determining procedures related to issuing violations, consider:*

* *Specifying who in the State is responsible for which step,*
* *Specifying current policies and procedures for compliance determinations followed by the State,*
* *Coordinating with Technical Assistance Providers,*
* *Detailing any follow up needs such as coordination with Technical Assistance Providers,*
* *Communicating specifics of the situation with the EPA,*
* *Informing the PWS owner and operator of the issue and the potential range of State or the EPA next steps, including escalation to enforcement as appropriate.*

# Resources and References

* *Executive Order 13990. Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.* January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>.
* *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.* 69 FR 35603 (June 25, 2004). <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>
* *Guidance on Emergency Authority under SDWA Section 1431 of the Safe Drinking Water Act* (May 30, 2018). <https://www.epa.gov/enforcement/updated-guidance-emergency-authority-under-sdwa-section-1431>
* *LCRR Implementation Fact Sheet.* (April 2024). <https://www.epa.gov/dwreginfo/lead-and-copper-rule-implementation-tools#LCRR%20Imp%20FS>
* *LCRR Frequently Asked Questions.* (April 2024). <https://www.epa.gov/dwreginfo/lead-and-copper-rule-implementation-tools#LCRR_FAQs>
* *Lead ALE Tier 1 PN Memo to Water Division Directors.* Water Supply Guidance 219. (April 11, 2024). <https://www.epa.gov/dwreginfo/public-water-system-supervision-program-water-supply-guidance-manual>
* *Lead ALE Tier 1 PN Template and Factsheet.* (April 2024).[*https://www.epa.gov/dwreginfo/lead-and-copper-rule-implementation-tools#TIER\_1*](https://www.epa.gov/dwreginfo/lead-and-copper-rule-implementation-tools#TIER_1)
* *National Primary Drinking Water Regulations: Lead and Copper Rule Revisions (LCRR).* 86 FR 4198. January 15, 2021. <https://www.federalregister.gov/documents/2021/01/15/2020-28691/national-primary-drinking-water-regulations-lead-and-copper-rule-revisions>
* *National Primary Drinking Water Regulations for Lead and Copper: Improvements (LCRI) Proposed Rule* 88 FR 84878. December 6, 2023. <https://www.federalregister.gov/documents/2023/12/06/2023-26148/national-primary-drinking-water-regulations-for-lead-and-copper-improvements-lcri>.
* *Review of the National Primary Drinking Water Regulation: Lead and Copper Rule Revisions (LCRR)*. 86 FR 71574. December 17, 2021. <https://www.federalregister.gov/documents/2021/12/17/2021-27457/review-of-the-national-primary-drinking-water-regulation-lead-and-copper-rule-revisions-lcrr>.
* *Revised Public Notification Handbook.* March 2023. EPA 816-R-23-002. <https://www.epa.gov/dwreginfo/public-notification-rule-compliance-help-water-system-owners-and-operators>
* *Revised State Implementation Guidance for the Public Notification (PN). Rule* March 2023. EPA 816-R-23-003. <https://www.epa.gov/dwreginfo/public-notification-compliance-help-primacy-agencies>

1. Note: This document is intended both for States with interim primacy, as well as States with and according to their primacy extension agreements with EPA for the 2021 LCRR. [↑](#footnote-ref-2)
2. “As used in this document, “State” refers to any state defined in 142.2 that has primacy for the Public Notification Rule revisions that were promulgated with the LCRR as well as any State that has primacy for public water systems that has a primacy application extension agreement for the LCRR, including the Public Notification Rule revisions that were promulgated with the LCRR. [↑](#footnote-ref-3)
3. The Lead and Copper Rule applies to community and non-transient non-community water systems. The term PWS is used throughout this document to reference this regulated community.  [↑](#footnote-ref-4)
4. As used in this document, the term “Administrator” refers to the Administrator of EPA or his delegee. [↑](#footnote-ref-5)
5. [Water Supply Guidance #219: Public Notification for Action Level Exceedance under the SDWA (April 2024)](https://www.epa.gov/system/files/documents/2024-04/lead-ale-tier-1-pn-memo-to-wdds_041124-with-wsg-no.-included.pdf) [↑](#footnote-ref-6)
6. Note: This reflects states with primary enforcement responsibility for the PN Rule (both those with primacy and interim for PN rule changes promulgated with the LCRR and those with 2021 LCRR primacy extension agreements that include this activity. [↑](#footnote-ref-7)
7. PWSs may send laboratories results throughout the monitoring period that may or may not be all of the samples the system collects or is required to collect at once. [↑](#footnote-ref-8)