

## **SUMMARY OF EXPRESS TERMS**

These amendments are necessary for the Department to maintain full primacy for delivery, oversight and management of New York's public drinking water supply supervision program and to ensure consistency with federally enacted drinking water regulations promulgated by the United States Environmental Protection Agency (EPA). The amendments update tables for consistency with federal and State requirements, update outdated references, and correct typographical errors.

Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 225 of the Public Health Law, Subpart 5-1 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Subdivision 5-1.1(bc) is amended to read as follows:

(bc) *Level 1 assessment* [means] is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and[,] (when possible[,]) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

Subdivision 5-1.1(bd) is amended to read as follows:

(bd) *Level 2 assessment* [means] is an evaluation [conducted by an individual approved by the State,] to identify the possible presence of sanitary defects, defects in distribution system

coliform monitoring practices, and[,] (when possible[,]) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment[,] through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the State, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the State in the case of an E. coli MCL violation.

Paragraph 5-1.1(bz)(4) is amended to read as follows:

(4) turbidity violations or exceedances specified in paragraph 5-1.78(d)[(3)][(4)] of this Subpart and determined by the State to present an existing or imminent condition which can be responsible for or cause illness, injury or death and for which immediate corrective or remedial action is required;

Paragraph 5-1.30(c)(3) is amended to read as follows:

(3) Disinfection must be sufficient to ensure at least 99.9 percent inactivation of *Giardia lamblia* cysts, 99.99 percent inactivation of viruses, and 99 or 99.9 percent inactivation of *Cryptosporidium* (per section 5-1.83(c)(2) of this Subpart), between a point where the raw water is no longer subject to recontamination by surface water runoff and a point downstream before or at the first consumer. Actual CT values must be equal to or greater than the required values found in section 5-1.52 Tables 14A through 14[I]K of this Subpart,

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Section 5-1.32 is amended to read as follows:

No later than April 1, 2009, [Finished] finished water storage facilities which deliver water to the user without later treatment shall be covered, or the water from an uncovered finished water storage facility shall be continuously treated to achieve inactivation or removal of at least 99.99 percent virus, 99.9 percent *Giardia lamblia*, and 99 percent *Cryptosporidium* in a manner approved by the State, in accordance with section 5-1.22(b) of this Subpart, before being discharged to the distribution system or be in compliance with a State approved schedule to meet these requirements.

Footnote 1 of Paragraph 5-1.40(b)(1) is amended to read as follows:

<sup>1</sup> Analysis of lead and copper samples must be done by an approved laboratory as prescribed in section 5-1.74(a), that demonstrates the ability to achieve a Practical Quantitation Level (PQL) for lead equal to [0.0005]0.005 milligrams/Liter (mg/L) and a PQL for copper equal to 0.050 mg/L.

Paragraph 5-1.41(b)(6) is amended to read as follows:

(6) Any water system deemed to have optimized corrosion control shall notify the State in writing, pursuant of section 5-1.48(i)[,] of this Subpart of any [upcoming long-term] change in treatment or addition of a new source. The water system shall obtain approval from the State before implementing the addition of a new source or [long-term] change in water treatment. The State may require any such system to conduct additional monitoring or to take other action the State deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

Subdivision 5-1.41(g) is amended to read as follows:

(g) Continued operation and [maintenance]monitoring.

Clause 5-1.42(a)(1)(iii)(d) is repealed.

Clause 5-1.42(a)(1)(iv)(a) is amended to read as follows:

(a) contain copper pipes [and]with leaded solder joints installed after 1982 or contain lead pipes;  
and/or

New subparagraph 5-1.42(a)(1)(vi) is added to read as follows:

(vi) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of the samples from sites served by a

lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall collect first-draw samples from all of the sites identified as being served by such lines.

Subparagraph 5-1.42(a)(2)(i) is amended to read as follows:

(i) All samples for lead and copper shall be collected from user taps and shall be first draw samples with the following exceptions: lead service line samples collected under section [5-1.45(b)(2)] 5-1.42(a)(2)(iii); or, if a system meets the criteria in section [5-1.47(g)]5-1.42(a)(2)(v) (e.g., prisons and hospitals).

Subparagraph 5-1.42(b)(1)(i) is amended to read as follows:

(i) the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements under section 5-1.41, of this subpart in which case the system shall continue standard monitoring in accordance with paragraph (b)(2) of this section; or

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Paragraph 5-1.42(c)(4) is amended to read as follows:

(4) Any water system that demonstrates for two consecutive 6-month monitoring periods that the tap water lead level is less than or equal to 0.005 mg/L and the tap water copper level is less than or equal to 0.65 mg/L, at the 90th percentile calculated in accordance with section [5-1.41(c)] 5-1.40(b)(4) of this Subpart may reduce the number of samples in accordance with subdivision (a)(3) of this section and reduce the frequency of sampling to once every three calendar years.

Subparagraph 5-1.42(c)(5)(ii) is amended to read as follows:

(ii) Any water system that has optimal corrosion control treatment installed that fails to meet the lead action level during any four-month monitoring period, or that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the State under section 5-1.41(f) of this Subpart for more than nine days in any six-month monitoring period specified in section 5-1.43(b)(3) of this Subpart shall resume standard monitoring at the standard number of sampling sites every six months in accordance with subdivision (b) of this section, and resume standard monitoring for water quality parameters in accordance with section 5-1.43(b) of this Subpart. This standard monitoring shall begin during the six-month monitoring period immediately following the water quality parameter excursion or lead action level exceedance with the first monitoring period to begin either January 1<sup>st</sup> or July 1<sup>st</sup>, whichever comes first. Any such system may resume reduced monitoring [if it meets the reduced monitoring criteria as specified in subdivision (c)(1) of this section] for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

(a) The system may resume reduced monitoring for lead and copper at the tap if it meets the reduced monitoring criteria as specified in subdivision (c)(2) of this section and it has received written approval from the State. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

(b) The system may reduce the number of water quality parameter tap water samples required and the frequency with which it collects such samples in accordance with section 5-1.43(c)(2) of this Subpart. Such a system may not resume triennial monitoring for water quality parameters at

the tap until it demonstrates, in accordance with the requirements of section 5-1.43(c)(2)(ii) of this Subpart, that it has re-qualified for triennial monitoring.

Subdivision 5-1.42(f) is amended to read as follows:

(f) Monitoring waivers for systems serving 3,300 or fewer persons. Any water system that serves 3,300 or fewer persons and meets the criteria in this subdivision may be eligible for a waiver to reduce monitoring of lead and copper to once every nine years ([“]full waiver[“]), or only for lead, or only for copper ([“]partial waiver[“]). The system must demonstrate that its distribution system and service lines and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials and/or copper-containing materials as those terms are defined [as follows:] in subparagraphs (f)(1)(i) and (ii) and/or (f)(2)(i) of this section. In addition, the system must meet the monitoring criteria in subparagraphs (f)(1)(iii) and/or (f)(2)(ii).

(1) Lead. To qualify for a full waiver or a waiver of the tap water monitoring requirements of lead (i.e. a [“]lead waiver[“]), the water system must provide certification and supporting documentation to the State that the system is free of all lead-containing materials, as follows:

(i) It contains no plastic pipes which contain lead plasticizers, or plastic service lines which contain lead plasticizers; and

(ii) It is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, unless such fittings and fixtures meet the specifications of any standard established pursuant to section 5-1.22(a) (Approval of [P]plans and [C]completed [W]works).



(iii) After completing at least one 6-month round of standard tap water monitoring for lead and copper at sites approved by the State as described in subdivisions 5-1.42(a) and (b) of this Subpart, the system must demonstrate that the 90<sup>th</sup> percentile lead level does not exceed 0.005 mg/l.

(2) Copper.

(i) To qualify for a full waiver or a waiver of the tap water monitoring requirements of copper (i.e. a [“]copper waiver[“]), the water system must provide certification and supporting documentation to the State that the system contains no copper pipes or copper service lines.

(ii) After completing at least one 6-month round of standard tap water monitoring for lead and copper at sites approved by the State as described in subdivisions 5-1.42(a) and (b) of this Subpart, the system must demonstrate that the 90<sup>th</sup> percentile copper level does not exceed 0.65 mg/l.

(3) Approval of waiver application. The system will be notified of the State’s determination in writing, setting forth the basis for its decision and any condition of the waiver. The system may be required to perform specific activities (e.g., limited monitoring, periodic outreach to customers to remind them to avoid installation of materials that might void reduced monitoring) to avoid the risk of lead or copper concentration of concern in tap water. A system serving fewer than 3,300 persons must continue monitoring for lead and copper at the tap as required in [subdivision (f)(1)-(4) of this section] subdivisions (b) and (c) of this section, as appropriate, until it receives written notification that the reduced monitoring has been approved.

Subparagraph 5-1.43(b)(2)(ii) is amended to read as follows:

(ii) one sample shall be collected at each entry point: Except as provided in [subdivision] subparagraph [(b)(2)](iii) of this [section] paragraph, at least one sample no less frequently than every two weeks (biweekly) for pH; alkalinity (and a reading of the dosage rate of the chemical used to adjust alkalinity, [when] and the alkalinity concentration is adjusted); calcium; orthophosphate or silica, as appropriate to the corrosion control treatment used; and a reading of the dosage rate of the corrosion control treatment chemical used.

Paragraph 5-1.45(a)(3) is amended to read as follows:

(3) The water system shall complete standard monitoring for tap water in accordance with section 5-1.42(b) of this Subpart and source water in accordance with [subdivision (b)(2) of this section] section 5-1.44(b)(2) of this Subpart following installation of source water treatment.

Subdivision 5-1.46(a) is amended to read as follows:

(a) Water systems that fail to meet the lead action level in tap samples collected after installing corrosion control treatment and/or source water treatment (whichever sampling occurs later) shall replace lead service lines in accordance with the requirements of this section. Water systems that fail to install optimal corrosion control treatment in accordance with section 5-1.41(c) of this Subpart or source water treatment in accordance with section 5-1.45(a)(2) of this Subpart by the date(s) specified by the State may be required to begin replacement of lead service lines.

Paragraph 5-1.46(b)(4) is amended to read as follows:

(4) Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by subdivision [(f)](e) of this section shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under subdivision [(c)](b)(2) of this section. The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that shall be replaced per year (7-percent lead service line replacement is based on a 15-year replacement program). For those systems that have completed a 15-year lead service line replacement program, the State will determine a schedule for replacing or re-testing lines that were previously tested under the replacement program if the system re-exceeds the action level.

Paragraph 5-1.46(c)(1) is amended to read as follows:

(1) At least 45 days prior to commencing with partial replacement of a lead service line, the water system shall provide notice to the resident(s) of all buildings served by the line explaining that they may experience a temporary increase of lead levels in their drinking water, along with guidance on measures consumers can take to minimize their exposure to lead. The State may allow the water system to provide notice of less than 45 days prior to commencing partial lead service line replacement, if such replacement is done in conjunction with emergency repairs. In addition, the water system shall inform the resident(s) served by the line that the system will, at the system's expense, collect a sample from each partially-replaced lead service line that is representative of the water in the service line for analysis of lead content, as prescribed in section 5-1.42(a)(2)(iii) of this Subpart, within 72 hours after the completion of the partial replacement

of the service line. The system shall collect the sample and report the results of the analysis to the owner and the resident(s) served by the line within three business days of receiving the results. [Mailed notices post-marked within three business days of receiving the results shall be considered “on time.”]

Clause 5-1.47(b)(2)(ii)(a) and (b) are amended to read as follows:

(a) Deliver printed materials meeting the content requirements of [subdivision (a)] paragraph (b)(1) of this section to all bill paying customers.

(b) Contact consumers who are most at risk by delivering education materials that meet the content requirements of [subdivision (a)] paragraph (b)(1) of this section as follows:

Item 5-1.47(b)(2)(ii)(b)(2)(vi) is amended to read as follows:

(vi) [Local]Social welfare agencies.

Clause 5-1.47(b)(2)(ii)(d) is amended to read as follows:

(d) Post material meeting the content requirements of [subdivision (a)] paragraph (b)(1) of this section on the water system’s website if the system serves a population greater than 100,000 or if the water system maintains a publicly accessible website;

Subdivision 5-1.47(c) is amended to read as follows:

(c) As long as a community water system exceeds the action level, it shall repeat the activities pursuant to [subdivision] subparagraph 5-1.47(b)(2)(ii) of this Subpart as described in paragraphs (c)(1) through (4) of this section.

(1) A community water system shall repeat the tasks contained in [subdivisions (a), (b) and (f)] clauses 5-1.47(b)(2)(ii)(a), (b), and (f) of this section every 12 months.

(2) A community water system shall repeat tasks contained in [subdivision (c) of this] clause 5-1.47(b)(2)(ii)(c) of this section with each billing cycle.

(3) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible website pursuant to [subdivision (d)] clause 5-1.47(b)(2)(ii)(d) of this section.

(4) The community water system shall repeat the task[s] in [subdivision (b)(2)(ii)(a), (b) and (d)] clause 5-1.47(b)(2)(ii)(e) of this section twice every 12 months on a schedule agreed upon with the State. The State may allow activities in [subdivision] subparagraph 5-1.47 (b)(2)(ii)[(b)] of this section to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the State in advance of the 60-day deadline.

Subdivision 5-1.47(g) is amended to read as follows:

(g) A community water system may use only the text specified in [subdivisions (b)(1)(i) and (b)(1)(ii)]section 5-1.47(b)(1)(i) of this [section] Subpart in lieu of the text in [subdivisions(b)(1)(i) through (b)(1)(iii)] section 5-1.47(b)(1)(i) and 5-1.47(b)(1)(ii) of this [section] Subpart, and to perform the tasks listed in subdivisions (d) and (e) of this section in lieu of the tasks in [subdivisions] subparagraph (b)(2)(ii) and [(b)(3)]subdivision (c) of this section if:

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Subparagraph 5-1.48(a)(1)(iii) is amended to read as follows:

(iii) the 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period and calculated in accordance with [section 5-1.41(c)] paragraph 5-1.40(b)(4) of this Subpart, unless the State calculates the system's 90th percentile under subdivision (h) of this section;

Paragraph 5-1.48(a)(2) is amended to read as follows:

For a nontransient noncommunity water system, or a community water system meeting the criteria of section 5-1.47[(b)(2)](g) of this Subpart that does not have enough taps that can provide first-draw samples,

\* \* \*

New paragraph 5-1.51(c)(6) is added to read as follows:

(6) Copies of monitoring plans developed pursuant to this subdivision shall be kept for the same period of time as the records of analyses of samples collected under the plan are required to be kept under this subpart.

Repeal Table 1 of section 5-1.52 and replace with new Table 1 to read as follows:

**Table 1. Inorganic Chemicals and Physical Characteristics Maximum Contaminant Level Determination**

Contaminants <sup>1,2</sup>	MCL (mg/L) <sup>3</sup>	Determination of MCL violations
Asbestos	7.0 million fibers/liter (MFL) (longer than 10 microns)	If the results of a monitoring sample analysis exceed the MCL, the supplier of water shall collect one more sample from the same sampling point within 2 weeks or as soon as practical.
Antimony	0.006	
Arsenic	0.010	
Barium	2.00	An MCL violation for all contaminants listed in this table, except for Arsenic, occurs when the average <sup>4</sup> of the initial sample and any confirmation sample exceeds the MCL.
Beryllium	0.004	
Cadmium	0.005	MCL violations for Arsenic will be determined as follows:
Chromium	0.10	
Cyanide (as free cyanide)	0.2 <sup>5,6</sup>	Compliance with the Arsenic MCL shall be determined based on the analytical result(s) obtained at each sampling point.
Mercury	0.002	
Selenium	0.05	For systems which are conducting monitoring at a frequency greater than annual, an Arsenic MCL violation occurs when the running annual average <sup>11,12,13</sup> at any sampling point is greater than the MCL. If any one sample would cause the annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.
Silver	0.1	
Thallium	0.002	
Fluoride	2.2	
Chloride	250.0	
Iron	0.3 <sup>7</sup>	
Manganese	0.3 <sup>7</sup>	
Sodium	No designated limits <sup>8</sup>	
Sulfate	250.0	
Zinc	5.0	
Color	15 Units	
Odor	3 Units	Compliance is based on a running annual average of monthly samples, computed quarterly. If the average of samples covering any consecutive four-quarter period exceeds the MCL, the system is in violation of the MCL and must notify the public.
Bromate <sup>9</sup>	0.010	
Chlorite <sup>10</sup>	1.0	Compliance is based on an average of each three-sample set taken in the distribution system in accordance with Table 8B. If the average exceeds the MCL, the system is in violation of the MCL and must notify the public.

**Table 1 (cont.)**

<sup>1</sup>If EPA Methods 200.7 or 200.9 are used, the MDLs determined when samples are analyzed by direct analysis (i.e., no sample digestion) will be higher, because they were determined using a 2x preconcentration step during sample digestion. Consider the need to preconcentrate, or the use of multiple in-furnace depositions to achieve required MDLs. For direct analysis of cadmium by Method 200.7, sample preconcentration using pneumatic nebulization may be required to achieve lower detection limits. Preconcentration may also be required for direct analysis of antimony, lead, and thallium by Method 200.9; antimony and lead by Standard Methods 3113 B; and lead by ASTM Method D3559-90D, unless multiple in-furnace depositions are made.

<sup>2</sup>When metals or nitrate samples are collected, they may be acidified with a concentrated acid or a dilute (50% by volume) solution of the applicable concentrated acid. This acidification may be done at the laboratory rather than at the time of sampling, provided the shipping time and other instructions in Section 8.3 of EPA Methods 200.7, 200.8, or 200.9 are followed.

<sup>3</sup>mg/L = milligrams per liter

<sup>4</sup>Rounded to the same number of significant figures as the MCL for the contaminant in question.

<sup>5</sup>If Ligand Exchange and Amperometry is used for cyanide analysis; either ASTM Method D6888-04 or Method OIA-1677, DW, "Available Cyanide by Flow Injection, Ligand Exchange, and Amperometry," January 2004 are approved. EPA-821-R-04-001, is available from ALPKEM, A Division of OI Analytical, P.O. Box 9010, College Station, TX 77842-9010; sulfide levels below those detected using lead acetate paper may produce positive method interferences. Samples should be tested using a more sensitive sulfide method to determine if a sulfide interference is present, and samples shall be treated accordingly.

<sup>6</sup>Cyanide samples must be adjusted with sodium hydroxide to pH 12 at the time of collection. The sample must be shipped and stored at 4°C or less.

<sup>7</sup>If iron and manganese are present, the total concentration of both should not exceed 0.5 mg/L. Higher levels may be allowed by the State when justified by the supplier of water.

<sup>8</sup>Water containing more than 20 mg/L of sodium should not be used for drinking by people on severely restricted sodium diets. Water containing more than 270 mg/L of sodium should not be used for drinking by people on moderately restricted sodium diets.

<sup>9</sup>Community and nontransient noncommunity water systems using ozone for disinfection or oxidation must comply with the bromate standard.

<sup>10</sup>Community and nontransient noncommunity water systems using chlorine dioxide as a disinfectant or oxidant must comply with the chlorite standard.

<sup>11</sup>Arsenic sampling results shall be reported to the nearest 0.001 mg/L.

<sup>12</sup>Any sample below the method detection limit shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance (average concentration) will be based on the total number of samples collected.

<sup>13</sup>If confirmation samples are collected, the average of the initial sample and any confirmation samples will be used for the determination of compliance and future monitoring requirements.

<sup>14</sup>Systems are only required to conduct the increased monitoring frequency at the sampling point where the MCL was exceeded and for only the specific contaminant(s) that triggered the system into the increased monitoring frequency.



Footnote 5 of section 5-1.52 Table 4A is amended to read as follows:

<sup>5</sup> If the combined filter effluent turbidity exceeds 1 NTU, the system must consult with the State in accordance with section 5-1.78(d)[(3)](4) of this Subpart.

Footnote 1 of section 5-1.52 Table 6 is amended to read as follows:

<sup>1</sup>All samples collected in accordance with Table 11 footnotes 1 and 2 and Table 11B of this section and samples collected in accordance with subdivision 5-1.51(g) of this Subpart shall be included in determining compliance with the MCL, TTT, and/or TTV unless any of the samples have been invalidated by the State. In accordance with 40 CFR 141.852(a)(2) systems need only determine the presence or absence of total coliforms and *E. coli*; a determination of density is not required.

Footnote 10 of section 5-1.52 Table 8B is amended to read as follows:

<sup>10</sup>Systems required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system's running annual average bromate concentration is  $\leq 0.0025$  mg/l based on monthly bromate measurements for the most recent four quarters. A system may remain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is [equal to or greater than 0.025 mg/L]greater than 0.0025 mg/L. If the average bromide concentration is [equal to or greater than 0.025 mg/L]greater than 0.0025 mg/L, the system must resume routine monthly bromate monitoring.

Footnote 6 of section 5-1.52 Table 8C is amended to read as follows:

<sup>6</sup>For both types of water sources the system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant. If a system draws water from more than one source and the sources are combined before distribution the system must sample at an entry point to

the distribution systems during periods of normal operating conditions when water is representative of all sources. [The average of the initial and confirmation sample contaminant concentration at each sampling point shall be used to determine compliance with the MCL.]

New Footnote 7 of section 5-1.52 Table 8C is added to read as follows:

<sup>7</sup> The average of the initial and confirmation sample contaminant concentration at each sampling point shall be used to determine compliance with the MCL.

Footnote 1 of section 5-1.52 Table 9A is amended to read as follows:

<sup>1</sup>To comply with monitoring requirements, certain conditions must be applied to test methods. The following apply to any samples collected for compliance with section [5-1.50(o)]5-1.51(o) of this Subpart:

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Footnote 1 of Section 5-1.52 Table 11B is amended to read as follows:

<sup>1</sup>After any total coliform positive sample from the distribution system, the system must collect repeat samples on the same day and within 24 hours of being notified of the positive result. If *E. coli* are present, the system must notify the State by the end of the day when the system is notified of the test result.

Footnote 10 of section 5-1.52 Table 11B is amended to read as follows:

<sup>10</sup>In the event of a fecal indicator positive sample from the raw source water, the state must be notified immediately and may require immediate corrective action. In no case will notification be later than 24 hours as described in section 5-1.78(d[(4)])(5) of this Subpart.

The Lead and Copper entry of Table 13 of section 5-1.52 is amended to read as follows:

Lead and Copper (Sections 5-1.40 to 1.48)	Not applicable	State Tier 2	State Tier <u>3</u>
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Footnote 3 of section 5-1.52 Table 13 is amended to read as follows:

<sup>3</sup>State notification must be made by the supplier of water [within 24 hours of] by the end of the day when the system is notified of an E. coli positive [sample] test result in the distribution system. State notification must be made by the supplier of water within 24 hours when the system is notified of an E. coli positive test result in the ground water source.

Footnote 1 of Section 5-1.61 is amended to read as follows:

<sup>1</sup>Routine monitoring shall begin in the month following the quarter when the running annual average TOC in treated water is  $\geq 2.0$  mg/L for systems using conventional filtration and/or  $> 4.0$  mg/L [for systems using all other types of filtration] in source water.

Paragraph 5-1.72(c)(5) is amended to read as follows:

(5) Surface water systems and ground water systems under the direct influence of surface water that are required to provide enhanced filtration and disinfection for *Cryptosporidium*, shall report to the State in accordance with the treatment and/or management options used to comply with the treatment requirements under section 5-1.83(b) or (c) of this Subpart, as applicable.

Alternatively, the State may approve a system to certify operation within required parameters for treatment credit, rather than reporting monthly operational data for Microbial Toolbox Component options in accordance with section 5-1.80(a) of this Subpart. The applicable treatment compliance dates are found in section 5-1.83(d) of this Subpart.

Subparagraph 5-1.72(c)(5)(vii) is amended to read as follows:

(vii) For systems using the individual filter performance option, monthly verification of the following shall be submitted within 10 days following the month in which the monitoring was

conducted: individual filter effluent (IFE) turbidity levels less than or equal to 0.15 NTU in at least 95 percent of [sample] samples each month [in]for each filter; and no individual filter greater than 0.3 NTU in two consecutive readings 15 minutes apart.

Paragraph 5-1.72(f)(5) is amended to read as follows:

Information on detected contaminants from sampling used to determine compliance. For the purpose of this subdivision (*except Cryptosporidium, Giardia, and radon monitoring*), *detected* means: at or above the contaminant's method detection limit (MDL), as defined in section 5-1.1(b), or as prescribed by the State. Any contaminants specified in sections [5-1.41]5-1.40 (lead and copper) and 5-1.51 of this Subpart and section 5-1.52 Tables 8A, 8B, 8C, 8D, 9A, 9B, 9C, 9D, 10, 10A, 11, 11A, 11B, 12, 16 and 17 of this Subpart that are detected during compliance monitoring shall be displayed in one table or in several adjacent tables.

\* \* \*

Subparagraph 5-1.72(f)(9)(iii) is amended to read as follows:

(iii) lead and copper control requirements. The report shall include health effects language [specified in 40 CFR 141.54(d)] prescribed by the state for lead, copper, or both, for systems which fail to take one or more actions prescribed by sections 5-1.40 through 5-1.48 of this Subpart;

Paragraph 5-1.72(f)(11) is amended to read as follows:

(11) Education information. The report must contain the language of subparagraph (i) of this paragraph or alternative language approved by the State. The report also must include the language of subparagraphs (ii) through [(iv)] (v) of this paragraph.

(i) the sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and can pick up substances resulting from the presence of animals or from human activities. Contaminants that may be present in source water include: microbial contaminants; inorganic contaminants; pesticides and herbicides; organic chemical contaminants; and radioactive contaminants.

(ii) in order to ensure that tap water is safe to drink, the State and the EPA prescribe regulations which limit the amount of certain contaminants in water provided by public water systems. The State Health Department's and the FDA's regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

(iii) drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(iv) some people may be more vulnerable to disease causing microorganisms or pathogens in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice from their health care provider about their drinking water. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium, Giardia and other microbial pathogens are available from the Safe Drinking Water Hotline (800-426-4791).

New subparagraph (v) is added to section 5-1.72(f)(11) to read as follows:

(v) if present, elevated levels of lead can cause serious health problems, especially for pregnant women, infants, and young children. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. [Water Supply Name] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline (1-800-426-4791) or at <http://www.epa.gov/safewater/lead>.

Paragraph 5-1.77(a) is amended to read as follows:

(a) The supplier of water shall make State notification within 24 hours [of], or as specified in section 5-1.52 table 13 of this subpart, when [learning of] the existence or potential existence of a public health hazard is discovered. The supplier of water shall make State notification [or] within 48 hours for any other violation or situation that may pose a risk to public health. Section 5-1.52 table 13 of this Subpart lists violations and situations that require State notification.

Section 5-1.80 is amended to read as follows:

5-1.80 Applicability.

[(a)]The provisions of this section, and sections 5-1.81 through 5-1.83 apply to all public water systems supplied by a surface water source(s) or ground water source(s) directly influenced by surface water, provided the system serves 15 or more service connections or serves 25 or more

persons. The requirements in this section for filtered systems apply to any system with a surface water or GWUDI source that is required to provide filtration, regardless of whether the system is currently operating a filtration system. All treatment must comply with the requirements of the Microbial Toolbox Components (MTC) as described in 40 CFR 141.715 through 40 CFR 141.720. Any systems utilizing any of the MTC must retain records and report to the State as described in 40 CFR 141.721 and 141.722. Any unfiltered systems that are in compliance with the filtration avoidance criteria in section 5-1.30(c) of this Subpart, are subject to the requirements in sections 5-1.80 through 5-1.83 pertaining to unfiltered systems. Wholesale system compliance with sections 5-1.81 through 5-1.83 is based on the population of the largest system in the combined distribution system. The above systems shall comply with the following requirements:

Subparagraph (a) is moved from the body of the above paragraph to stand separate as follows:

- (a) Systems shall conduct an initial and a second round of source water monitoring for each plant that treats water from a surface water source or ground water source directly influenced by surface water. This monitoring may include Cryptosporidium, E. coli, and turbidity, as described in section 5-1.81(a) through (d) of this Subpart, to determine what level, if any, of additional Cryptosporidium treatment shall be provided. Cryptosporidium monitoring shall be done using an approved method. The following method modifications must also be followed:

\* \* \*

Footnote 1 to paragraph 5-1.83(a)(2) is amended to read as follows:

<sup>1</sup> Based on calculations in paragraph (1) or [(4)](3) of this subdivision, as applicable.

New subparagraphs (i) and (ii) are added to section 5-1.83(c)(3) to read as follows:

(i) Systems that use chlorine dioxide or ozone and fail to achieve the Cryptosporidium inactivation required in paragraph (2) of this subdivision on more than one day in the calendar month are in violation of the treatment technique requirement.

(ii) Systems that use UV light and fail to achieve the Cryptosporidium inactivation required in paragraph (2) of this subdivision by meeting the criteria in footnote 4 of section 5-1.52 Table 14K are in violation of the treatment technique requirement.

Paragraph 5-1.83(d)(1) is amended to read as follows:

(1) Following initial bin classification under subdivision (a) of this section, filtered systems shall provide the level of treatment for *Cryptosporidium* required under subdivision (b) of this section, [on a schedule approved by the State] in accordance with the schedule in 40 CFR 141.713(c).

Paragraph 5-1.83(d)(2) is amended to read as follows:

(2) Following initial determination of the mean *Cryptosporidium* level under [subdivision] subparagraph (c)(1)(i) of this section, unfiltered systems shall provide the level of treatment for *Cryptosporidium* required under subdivision (c) of this section, in accordance with the schedule in 40 CFR 141.713(c).



Appendix 5-A of Subpart 5-1 is repealed and replaced with the new Appendix 5-A to read as follows:

#### APPENDIX 5-A

#### RECOMMENDED STANDARDS FOR WATER WORKS, 2018 EDITION

“Recommended Standards for Water Works, 2018 edition” reported by the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers. Available for viewing at the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231 and the Bureau of Water Supply Protection, Department of Health, Corning Tower, Empire State Plaza, Albany, NY 12237

## NOTICE OF CONSENSUS RULEMAKING

### **Statutory Authority:**

The Public Health and Health Planning Council, subject to the approval of the Commissioner of Health, is authorized by section 225 of the Public Health Law to establish, and from time to time, amend and repeal sanitary regulations, known as the sanitary code of the State of New York.

### **Basis:**

The proposed regulatory change is non-substantive and non-controversial. The proposed amendment of 10 NYCRR Subpart 5-1 "Public Water Systems" of the State Sanitary code will correct typographic errors, update references and make minor technical revisions to conform the regulation with federal requirements to obtain primacy for the implementation and enforcement of federal drinking water regulations from U.S. Environmental Protection Agency.

## **JOB IMPACT STATEMENT**

The Department of Health has determined that the proposed revisions will not have substantial adverse impact on jobs or employment opportunities. These correct mainly typographic errors and do not change the requirements water systems need to follow to implement the regulation.

