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Proposal to
Amend Virgin Islands Primary Drinking Water Standards
Rules and Regulations
Title 19, Chapter 51, Subchapter I



GOVERNMENT OF THE US VIRGIN ISLANDS
DEPARTMENT OF PLANNING AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

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TABLE OF CONTENTS

Statement of Statutory Authority
1303-10. Purpose
1303-11. Applicability
1303-12. Definitions
1303-13. Coverage
1303-14. Variances or Exemptions.....
1303-15. Siting requirements.....
1303-16. Effective Date
1303-17. Requirements for water used for human consumption that is transported
by truck or tanker.....
1303-21. Maximum contaminant levels for inorganic chemicals
1303-22. Maximum contaminant levels for organic chemicals
1303-23. Maximum contaminant levels for turbidity
1303-24. Maximum microbiological contaminant levels
1303-25. Maximum contaminant levels
1303-26. Prohibition on the use of lead pipes, solder and flux
1303-27. Variances and exemptions form the maximum contaminant levels for
regulated contaminants
1303-28. Use of Bottled Water
1303-29. Criteria and procedures for public water systems using point-of-entry
devices
1303-30. Bottled water regulations.....
1303-41. Microbiological contaminant sampling and analytical requirements

1303-42. Inorganic chemical sampling and analytical requirements

1303-43. Organic chemicals other than trihalomethanes, sampling and analytical requirements

1303-44. Analytical methods for radioactivity

1303-45. Monitoring frequency for radioactivity in community water systems

1303-46. Alternative analytical technique

1303-47. Approved laboratories

1303-48. Monitoring of consecutive public water systems

1303-49. Reporting requirements

1303-50. Record maintenance

1303-51. Special monitoring for sodium

1303-52. Special monitoring for corrosivity characteristics.....

1303-53. General requirements for the control of lead and copper.....

1303-54. Applicability of corrosion control treatment steps to small, medium and large water systems for the control of lead and copper

1303-55. Description of corrosion control treatment requirements for the control of lead and copper

1303-56. Source water treatment requirements for the control of lead and copper

1303-57. Lead service line replacement for the control of lead and copper

1303-58. Public education and supplemental monitoring requirements for the control of lead and copper

1303-59. Monitoring requirements for lead and copper in tap water

1303-60. Monitoring requirements for water quality parameters for the control of lead and copper

1303-61. Monitoring requirements for lead and copper in source water

1303-62. Analytical methods for the control of lead and copper

1303-63. Maximum contaminant levels for disinfection byproducts.....

1303-64. Maximum residual disinfectant levels.....

1303-65. General requirements for filtration and disinfection.....

1303-66. Criteria for avoiding filtration.....

1303-67. Disinfection.....

1303-68. Filtration.....

1303-69. Filtration and disinfection: analytical and monitoring requirements.....

1303-70. Filtration and disinfection: reporting and recordkeeping requirements.....

1303-71. Filter recycling requirements.....

1303-72. Recordkeeping requirements for lead and copper control.....

1303-73. General requirements for treatment techniques.....

1303-74. Treatment techniques for acrylamide and epichlorohydrin.....

1303-75. Disinfectant residuals, disinfection byproducts, and disinfection
byproduct precursors: general requirements.....

1303-76. Disinfectant residuals, disinfection byproducts, and disinfection
byproduct precursors: analytical requirements.....

1303-77. Disinfectant residuals, disinfection byproducts, and disinfection
byproduct precursors: monitoring requirements.....

1303-78. Disinfectant residuals, disinfection byproducts, and disinfection
byproduct precursors: compliance requirements.....

1303-79. Disinfectant residuals, disinfection byproducts, and disinfection
byproduct precursors: reporting and recordkeeping requirements.....

1303-80. Treatment technique for control of disinfection byproduct precursors.....

1303-81. Applicability of requirement for consumer confidence reports.....

1303-82. Effective dates for required consumer confidence reports.....

1303-83. Content of consumer confidence reports.....

1303-84. Required additional health information for consumer confidence reports...

1303-85. Report delivery and recordkeeping for consumer confidence reports

1303-86. General requirements for enhanced filtration and disinfection for subpart H systems serving at least 10,000 people

1303-87. Criteria for avoiding filtration for subpart H systems serving at least 10,000 people.....

1303-88. Disinfection profiling and benchmarking for subpart H systems serving at least 10,000 people

1303-89. Enhanced filtration requirements for subpart H systems serving at least 10,000 people.....

1303-90. Enhanced filtration sampling requirement for subpart H systems serving at least 10,000 people

1303-91. Enhanced filtration and disinfection reporting and recordkeeping requirements for subpart H systems serving at least 10,000 people

1303-92. General requirements for public notification

1303-93. Tier 1 public notice – form, manner, and frequency of notice.....

1303-94. Tier 2 public notice – form, manner, and frequency of notice.....

1303-95. Tier 3 public notice – form, manner, and frequency of notice.....

1303-96. Content of public notice

1303-97. Notice to new billing units or new customers

1303-98. Special notice of availability of results of unregulated contaminant monitoring.....

1303-99. Special notice exceedance of the secondary maximum contaminant level for fluoride.....

1303-100. Special notice for nitrate exceedances above maximum contaminant level by non-community water supply systems

1303-101. Notice by department on behalf of the public water supply system

1303-102. General requirements for enhanced filtration and disinfection for
subpart H systems serving fewer than 10,000 people

1303-103. Applicability of general requirements for enhanced filtration and
disinfection for subpart H systems serving fewer than 10,000 people.....

1303-104. Effective dates of requirements for enhanced filtration and disinfection
for subpart H systems serving fewer than 10,000 people.....

1303-105. Compliance criteria for enhanced filtration and disinfection for subpart
H systems serving fewer than 10,000 people

1303-106. Identifying applicable systems for new finished water reservoir
requirements for subpart H systems serving fewer than 10,000 people

1303-107. New finished water reservoir requirements for subpart H systems
serving fewer than 10,000 people.....

1303-108. Identifying applicable systems for updated watershed control
requirements for subpart H systems serving fewer than 10,000 people

1303-109. Updated watershed control requirements for unfiltered subpart H
systems serving fewer than 10,000 people

1303-110. State determination of adequate updated watershed control requirements
for unfiltered subpart H systems serving fewer than 10,000 people.....

1303-111. Disinfection profiling for subpart H systems serving fewer than 10,000
people.....

1303-112. Criteria for avoiding disinfection profiling in subpart H systems serving
fewer than 10,000 people.....

1303-113. Effective dates for required disinfection profiling in subpart H systems
serving fewer than 10,000 people.....

1303-114. Collection of disinfection profile data for subpart h systems serving

fewer than 10,000 people.....

1303-115. Calculation of inactivation ratio for subpart H systems serving fewer than 10,000 people.....

1303-116. Inactivation ratio for viruses in subpart H systems serving fewer than 10,000 people.....

1303-117. Retention of disinfection profile data for subpart H systems serving fewer than 10,000 people.....

1303-118. Disinfection benchmark for subpart H systems serving fewer than 10,000 people.....

1303-119. Significant changes to disinfection practice in subpart H systems serving fewer than 10,000 people.....

1303-120. Consultation regarding significant change to disinfection practice for subpart H systems serving fewer than 10,000 people

1303-121. Calculation of disinfection benchmark for subpart h systems serving fewer than 10,000 people.....

1303-122. Disinfection benchmark for primary disinfectants other than chlorine for subpart H systems serving fewer than 10,000 people

1303-123. Requirements for combined filter effluent turbidity in subpart H systems serving fewer than 10,000 people.....

1303-124. Limits for strengthened combined filter effluent turbidity in subpart H systems serving fewer than 10,000 people

1303-125. Alternative filtration demonstration for subpart H systems serving fewer than 10,000 people.....

1303-126. Special provisions for combined filter effluent in subpart H systems serving fewer than 10,000 people.....

fewer than 10,000 people.....

1303-128. Contingency requirements for individual filter turbidity in subpart H systems serving fewer than 10,000 people

1303-129. Special provision for continuous monitoring of combined filter effluent turbidity in subpart H systems serving fewer than 10,000 people

1303-130. Follow-up actions to monitoring of individual filter turbidity for subpart H systems serving fewer than 10,000 people

1303-131. Special provision for alternative turbidity exceedance levels in subpart H systems serving fewer than 10,000 people

1303-132. Reporting requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

1303-133. Recordkeeping requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

1309-1. Administrative assessment of civil fines and penalties

1309-2. Penalties and remedies.....

TABLE 1

TABLE 2.....

CERTIFICATION BY THE LIEUTENANT GOVERNOR THAT REGULATIONS WERE DULY PUBLISHED AND CONFORM TO FORMATTING REQUIREMENTS

GOVERNOR’S CERTIFICATE OF COMPELLING CIRCUMSTANCES

GOVERNOR’S APPROVAL & LIEUTENANT GOVERNOR’S ATTEST

CERTIFICATION OF TRANSMITTAL TO LEGISLATURE

HEALTH

PART VI. REGULATORY PROVISIONS CONCERNING
PUBLIC HEALTH

Chapter 51. Drinking Water Standards

Subchapter 1303. Virgin Islands Interim Primary Drinking Water Standards

Statement of Authority

The Department of Planning and Natural Resources of the Virgin Islands is charged with the responsibility of regulating all matters relating to the Primary Drinking Water Standards in the Territory of the United States Virgin Islands. These Rules are promulgated pursuant to the authority to adopt by incorporation by reference is granted in the Amendment to Title 19 V.I.C., Chapter 51 of the Virgin Islands Code pertaining to the Safe Drinking Water Act, pursuant to Act No. 6433, October 9, 2001, allowing for the promulgation and enforcement of discretionary changes to the National Regulations as are necessary and appropriate to the circumstances in the Virgin Islands.

Source. Sections 1303-11 to 1303-53: Regulations to provide for Virgin Islands Interim Primary Drinking Water Standards issued by the Department of Conservation and Cultural Affairs, dated June 16, 1977, and approved by the Governor. Filed with Lieutenant Governor June 16, 1977; File No. 986. Amended October 13, 1994 adding Sections 1303-54 through 1303-70. Amended July 22, 2008 by adopting the July 1, 2005, 40 CFR 141 142, E, F, and G, and 143 by reference and repealing or adopting by reference rule language except where unique and/or more stringent language than the federal language applies.

Publication. The regulations set out as chapter 51, Drinking Water Standards, contained a certificate which provided such regulations shall take

effect without the usual prior publication because of compelling circumstances. The promulgation of these regulations by June 24, 1977 was necessary in order to permit the transfer of primary enforcement responsibility from the United States Environmental Protection Agency to the Department of Conservation and Cultural Affairs of the Virgin Islands, effective July 1, 1977. Similarly, Amendments promulgated in 1994 and in 2007 updated the regulations to maintain primacy for the Virgin Islands Government for the enforcement of amended standards mandated by the Federal Safe Drinking Water Act.

§ 1303-10. Purpose

This subchapter implements the Primary Drinking Water Standards Control Act, 19 V.I.C. §§ 1303 and 1309, *et seq.* The purpose of adopting the Revised Total Coliform and Ground Water Rule is to further protect public health by way of reducing potential pathways for harmful microorganisms from entering public drinking water. The rule establishes a maximum contaminant level by using the presence of *Escherichia coli* (*E. coli*) a fecal indicator. This adoption also establishes a coliform treatment technique requirement to address any identified deficiencies within the system.

§ 1303-11. Applicability

Except as provided in this subchapter, the provisions found in Parts 141, 142 Subparts E, F and G and 143 of Title 40 of the Code of Federal Regulations (CFR), as published July 1, 2007 and annually thereafter, and the requirements contained therein, are adopted and herein incorporated by reference into the Virgin Islands Rules and Regulations (VI R&R) Subchapter 1303.

§ 1303-12. Definitions

(a) For the purposes of subchapter 1303, the definitions contained in 40 CFR 141.2, as published on February 13, 2013, are hereby adopted by reference with the following alterations:

(1) The definition of "Public Water System or PWS" shall be replaced

with the following: "Public water system" means a system for the provision to the public of piped water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least eight (8) service connections or regularly serves an average of at least twenty (20) individuals daily at least sixty (60) days out of the year. Such term includes any source, treatment, storage, or distribution facilities under control of the operator of the system and used primarily in connection with the system, and any source, treatment, storage, or distribution facilities not under such control but which are used in connection with the system. Such term does not include any "special irrigation district". A public water system is either a "community water system" or a "non-community water system";

(2) The definition of "Community water system" shall be replaced with the following: "Community water system" means a public water supply system which has at least eight (8) service connections used by year-round residents or that regularly serves at least twenty (20) year-round residents;

(3) The definition of "Non-transient non-community water system" shall be replaced with the following: "Non-transient non-community water system or NTNCWS" means a public water system that is not a community water system and that regularly serves at least twenty (20) of the same persons over 6 months per year; and

(4) The definition of "Transient non-community water system" shall be replaced with the following: "Transient non-community water system or TWS" means a non-community water system that does not regularly serve at least twenty (20) of the same persons over six months per year.

(b) Words used in the singular form in this subchapter shall include the plural, and vice versa, as the case may require. Words defined in the Act but not defined below shall have the meaning given them in the Act.

(c) In the context of these Rules, the following words and phrases shall be construed as having the following meaning, except as the context clearly requires otherwise:

(1) "Act" means the Virgin Islands Safe Drinking Water Act, as

amended;

- (2) “Approved laboratory” means a laboratory approved by the DPNR or certified by the EPA.
- (3) “Approved source” when used in reference to a bottled water plant's product water or water used in the plant's operations, means the source of water whether it be from a spring, artisan well, drilled well, public or community water system or any other source that has been inspected and the water sampled, analyzed, and found to be of safe and sanitary quality. The presence in the plant of a current certificate or notification of approval from the DPNR shall constitute approval of the source.
- (4) “Artesian water” means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. Artesian water shall meet the requirements of natural water.
- (5) “Bottled water” means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.
- (6) “Bottled water plant” means any place or establishment in which bottled water is prepared for sale.
- (7) “DPNR” means the United States Virgin Islands, Department of Planning & Natural Resources. DPNR is the regulatory entity for all provisions of the Act. During any period when the Virgin Islands Government does not have primary enforcement responsibility pursuant to Section 1413 of the Act, the authority associated with DPNR is assumed by the Regional Administrator, U.S. Environmental Protection Agency.
- (8) “EPA” means the United States Environmental Protection Agency;
- (9) “FDA” means the United States Food and Drug Administration;
- (10) “Force majeure” means any cause which prevents performance of any of the activities under these Rules due to causes which are outside the control of the public water system and cannot be avoided by the exercise of

reasonable diligence, and includes: Acts of God, acts occasioned exclusively by violence of nature without the interference of any human agency, war, riot, and strikes.

(11) “MCL” means maximum contaminant level;

(12) “Natural water” means bottled spring, mineral, artesian, or well water which is derived from an underground formation and is not derived from a municipal system or public water supply.

(13) “NCWSS” means non-community water supply system;

(14) “Plant operator” means any person who owns or operates a bottled water plant.

(15) “Rules” means these rules and regulations;

(16) “SMCL” means secondary maximum contaminant level;

(17) “Spring water” means water derived from an underground formation from which water flows naturally to the surface of the earth.

(18) “Water dealer” means any person who imports bottled water or causes bulk water to be transported for bottling, human consumption or other consumer uses.

§ 1303-13. Coverage

The provisions of 40 CFR 141.3, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-14. Variances or Exemptions

(a) The provisions set forth in 40 CFR 141.4(a) as in effect on April 1, 2016, are hereby adopted by reference.

§ 1303-15. Siting requirements

The provisions of 40 CFR 141.5, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-16. Effective dates

(a) The provisions of 40 CFR 141.6(j) and 141.60(b)(4), as in effect on July 1, 2007, are hereby adopted by reference with the exception that any reference to the effective date for arsenic of January 23, 2006 is replaced by January 1, 2006.

(b) The following text shall be added: All internal requirements regarding effective dates which have passed, completion dates which have passed, or beginning compliance dates which have passed within a CFR that is adopted by reference shall be replaced with the date these Rules become effective.

§ 1303-17. Requirements for water used for human consumption that is transported by truck or tanker

(a) All trucks and tankers that are engaged in the transportation of water for human consumption shall be inspected and registered annually by the DPNR prior to being placed into service, to ensure their sanitary condition. The first inspection shall be performed no later than sixty (60) days after the effective date of these Rules and during the month of January thereafter.

(1) It is the presumption of these Rules that any water delivered by truck or tanker to a cistern or storage tank in a public water system or a private residence is water that is being transported for human consumption.

(2) A record of the current DPNR inspection and certification, in the form of a valid inspection sticker, must be displayed in a conspicuous location on the rear of the truck. If a current sticker is not affixed to a truck that transports water for human consumption then the truck is considered in violation of this section and subject to penalties under Section 1309-1 of the VI R&R.

(b) All trucks or tankers that have transported any hazardous or toxic material(s) must be subject to inspection by the DPNR to ensure that such trucks or tankers are free of all hazardous or toxic material(s) before they will be allowed to transport water for human consumption.

(c) All trucks and tankers transporting water for human consumption are required to maintain records indicating the frequency of cleaning and disinfecting of the trucks or tankers and the types of chemicals and materials used in the cleaning process. All records must be made available upon request of DPNR.

(d) The truck or tanker operator must enter each load of water in a manifest which must describe, at a minimum: the source of the water; the date the water was loaded into the truck, the name and address of the recipient of the water; and the date of delivery.

(e) The truck or tanker operator must make available upon request of a customer a written certificate that the water is from a source that is in compliance with the Act, and written proof of certification by the DPNR that the truck or tanker has passed inspection and has approval from the DPNR to transport water.

(f) The Commissioner has the power, sixty (60) after this amendment goes into effect, to prohibit trucks and tankers that do not comply with these Rules from transporting water for human consumption.

(g) After the effective date of these Rules no tanker truck that has been used to carry any product other than drinking water, milk or other products utilized for human consumption can be newly placed into service to transport potable water without express written permission from the Commissioner. All truckers and trucking companies in the business of transporting water for human consumption must maintain records of previous use for each tanker truck from its date of manufacture to the date it was put into service as a potable water hauler. These records must include any and all hazardous, toxic or special material or waste that was transported by the tanker truck in the past. These records must be made available upon request of DPNR.

(1) If records indicate that a tanker truck has previously been used for transportation of hazardous or potentially toxic materials in the past, or if

records do not exist to confirm hazardous or potentially toxic materials were not transported by that tanker truck, then the Commissioner may prohibit the trucking company from using that truck for the transportation of water for human consumption.

(A) The Commissioner may require sampling of water from the inside of a truck that may have transported hazardous or potentially toxic materials to be completed prior to use of a truck for transportation of water for human consumption. This sampling may, at the discretion of the Commissioner, be for any chemical, physical, microbiological and/or radiological contaminants.

(h) After the effective date of these Rules trucks and tankers used for transporting water for human consumption may not be used for other purposes without prior written permission of the Commissioner.

(i) After the effective date of these Rules, trucks and tankers used for the transporting of water for human consumption may only be used for transporting water for human consumption from water sources approved and regulated by DPNR. To be approved by DPNR, these water sources must, at a minimum, perform all water quality monitoring required for transient public water systems. Increased monitoring for chemical constituents can be required at the discretion of the Commissioner. The owner of the water source is responsible for completing the required water quality monitoring and reporting the results to DPNR as required by 40 CFR 141.31. The distribution of water from an unregulated source to tankers and trucks for distribution for the purposes of human consumption is prohibited. The transportation of water from an unregulated source for use for human consumption is also prohibited.

§ 1303-21. Maximum contaminant levels for inorganic chemicals

(a) The provisions of 40 C.F.R 141.11, as in effect on July 1, 2007, are hereby adopted by reference with the following exception: the effective date for the arsenic MCL of January 23, 2006, is replaced by January 1, 2006.

(b) The provisions of 40 C.F.R 141.62, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-22. Maximum contaminant levels for organic chemicals

The provisions of 40 C.F.R 141.61, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-23. Maximum contaminant levels for turbidity

The provisions of 40 CFR 141.13, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-24. Maximum microbiological contaminant levels

(a) The provisions of 40 C.F.R 141.63, as in effect on April 1, 2016, are hereby adopted by reference.

(b) Maximum contaminant level goals for microbiological contaminants contained in 40 C.F.R 141.52, as in effect on April 1, 2016, are hereby adopted by reference.

§ 1303-25. Maximum contaminant levels for radionuclides

The provisions of 40 C.F.R 141.66, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-26. Prohibition on the use of lead pipes, solder and flux

The provisions of 40 CFR 141.43, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-27. Variances and exemptions from the Maximum Contaminant Levels for Regulated Contaminants

The provisions of 40 C.F.R 142, Subparts E, F, and G, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-28. Use of Bottled Water

The provisions of 40 C.F.R 141.101, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-29. Criteria and procedures for public water systems using point-of-entry devices

The provisions of 40 CFR 141.100, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-30. Bottled water regulations

(a) Product quality

(1) All bottled water shall be from a source that is in full compliance with the drinking water regulations and shall not contain any constituent in quantities that may be injurious to health, as established by the DPNR and the Act. All bottled water shall meet standards prescribed by the DPNR.

(2) Bottled water shall not exceed any maximum contaminant levels established in Chapter 51 of the Virgin Islands Drinking Water Standards 19 VI_R&R section 1303-2 et seq, or any other maximum contaminant level established by the EPA or DPNR under the Safe Drinking Water Act.

(b) Manufacturing practices and operational requirements

(1) All bottled water shall be filtered, processed and packaged in accordance with the FDA's Good Manufacturing Practice Regulations (GMPs), 21 CFR Parts 110 and 129, and any other regulations prescribed by the DPNR or other authorized agencies.

(2) Bottled water production, including transporting, processing, packaging, and storage, shall be conducted under such conditions and controls as are necessary to minimize the potential for microbiological contamination of the finished product. These conditions and controls shall include the following:

(A) Bottled water shall be subject to effective germicidal treatment by ozonation or carbonation at a minimum of three (3) volumes of carbon dioxide or other equivalent disinfection approved by the DPNR.

(B) Bottled water shall not be transported and stored in bulk tanks or processed or bottled through equipment or lines used for any non-food product.

(i) In order to minimize the potential for microbiological contamination of the finished product, non-carbonated bottled water shall not be transported, stored, processed, or bottled in or through lines or equipment through which has passed any food product other than water which is likely to contribute nutrients for microbiological growth.

(ii) Bottled water shall not be transported, stored, processed, or bottled through lines or equipment through which any food product other than water has passed except under procedures approved by the DPNR that prevent the potential for microbiological contamination in bottled water.

(iii) Where ozone is used as a germicidal agent for bottled water, all gaskets, o-rings, and similar flexible materials shall be made of silicon rubber, teflon, or other ozone-resistant material. These flexible parts shall be replaced whenever they show evidence of surface deterioration.

(3) Each bottled water plant operator and water dealer shall develop and maintain a procedure for product recall and implement that procedure for

any product which the operator or dealer knows or has reason to believe may have been affected by the circumstances that may adversely affect safety for the consumer. In order to facilitate product identification or recall, each bottled water product shall contain a unique code that is designed to remain affixed to the container during use and which contains either the date of manufacture or a lot or batch number (not extending for a period of longer than seven (7) days) and which identifies a specific set of primary containers or units of the same size, type and style produced under nearly uniform conditions. In addition, each bottled water product shall be affixed with a permanent date stamp indicating the date of bottling for that individual container (month and year).

(4) Artesian water may be collected with the assistance of external force to enhance the natural underground pressure so long as such measures do not alter the physical properties, composition and quality of the water.

(5) Natural water shall not be modified by blending with water of another type or by deletion or addition of dissolved solids except as related to disinfection or other treatment to reduce the concentration of any naturally-present constituent which exceeds government-sanctioned or approved safety standards or guidelines set forth by the DPNR. It may be collected and transported by pumps, pipes, tunnels, trucks or similar devices.

(6) Spring water shall be collected only at the spring or through a bore hole that is adjacent to the point of emergence. Spring water collected with the assistance of external force to protect the water shall retain all the physical properties of and be of the same composition and quality as the water that flows naturally to the surface of the earth.

(7) A bottled water plant shall be operated under the supervision of a competent person qualified by experience, education or training to operate and maintain the plant facilities. The person supervising plants operations must demonstrate to DPNR's satisfaction that she/he has the requisite competence. Proof of competency includes but is not limited to a demonstration that the person has received training or instruction, has work experience in or holds a certificate covering training in source and product sanitation, operation and maintenance of water treatment technology, and the

maintenance and monitoring of source and product water quality in accordance with these bottled water standards.

(c) Source water monitoring

(1) The plant operator shall be responsible for sampling and analysis of all approved sources for the contaminants specified in the Act to assure that product water derived from approved sources continues to comply with the Primary Drinking Water Standards. Such monitoring shall be done in accordance with the regulations for community public water systems set forth in the Act.

(2) In lieu of source monitoring required by this section and the DPNR, a plant operator using a public water system as its source may obtain and display a certificate from the system demonstrating that the public water system conducts the required monitoring.

(3) Where a bottled water plant operator, water dealer or regulatory agency (specifically DPNR) knows or has reason to believe that a contaminant not otherwise monitored is present in the source water due to a spill, release of hazardous substance, or otherwise, and its presence would create a potential health hazard to consumers, the plant operator or water dealer, upon such information, shall monitor the source water for the contaminant, and shall cease operation upon confirmation that the source has been contaminated.

(4) Detection of contaminants in source monitoring required by Section 1303 shall be followed immediately by a program of periodic monitoring to confirm the presence in the source water of said contaminants. If such listed, unregulated contaminants are confirmed to be present in the source water as to exceed a published US EPA Health Advisory or US FDA Action Level or DPNR determination of acute health risk for drinking water, the plant operator or water dealer shall employ appropriate treatment techniques to remove or to reduce said contaminant in the product water below the concentration and shall employ a program of periodic monitoring for the contaminant in the source water until such time as the contaminant is not detectable in the source water.

(5) The required source water sampling shall be performed by qualified

personnel and required analysis shall be performed by an approved laboratory. Records of the required sampling and analyses shall be maintained on file at the plant for not less than five (5) years and shall be available for official review upon the request of DPNR.

(d) Finished product monitoring

(1) To assure that bottled water complies with the Act, the following product monitoring using representative samples derived from the bottled product shall be performed:

(A) For microbiological contaminants specified in the Act, analyze weekly a representative sample from a batch or segment of continuous production for each type of bottled water produced at the plant.

(B) For chemical, physical and radiological contaminants specified in the Act, analyze annually a representative sample from a batch or segment of continuous production, run for each type of bottled water produced by the plant.

(2) The required product water sampling shall be performed by qualified personnel and required analyses shall be performed by a certified laboratory.

(3) Records of required sampling and analysis shall be maintained at the plant not less than five (5) years and shall be available for official review upon request of DPNR.

(e) Labeling Requirements

(1) All bottled water shall conform to applicable territorial and federal labeling laws and regulations.

(2) Printed information or graphics relative to recognized uses of the water shall not imply properties of the product or preparation methods which are not factual.

(3) The term "pure" may appear on the label only when used to identify

the contents as "purified water". Where the term is used, the method of preparation shall be stated on the label. For purposes of this section "pure or purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

§ 1303-41. Microbiological contaminant sampling and analytical requirements

The provisions of 40 CFR 141.402: Groundwater Source Microbial Monitoring and Analytical Methods, as in effect December 1, 2009, are hereby adopted by reference, with the exception of 40 CFR 141.402(a), which is hereby adopted by reference as in effect April 1, 2016. The provisions of 40 CFR 141.21 are not adopted by reference and are replaced by the following:

(a) Routine Monitoring:

- (1) All community and non-community water systems within sixty (60) days of the effective date of these Rules shall submit to DPNR a written sampling site plan for collecting routine and repeat coliform samples.
- (2) The site plan must identify sampling sites and a sample location schedule.
- (3) Routine and repeat sample sites must be reflected in the sampling plan.
- (4) Systems must collect samples according to the written sample siting plan.
- (5) The site plan must include an accurate diagram of the configuration of the system.
- (6) The site plan must demonstrate that the sites selected are representative of the water throughout the distribution system.
- (7) Public water systems shall mail or deliver site plans to the Department

of Planning & Natural Resources, Public Water Supply Supervision Program, Division of Environmental Protection. For the St. Croix Systems site plans should be sent to the St. Croix office, and for St. Thomas or St. John systems site plans should be sent to the St. Thomas office.

(8) Upon approval of a site plan, DPNR shall stamp the plan and return it by mail to the water system within thirty (30) days of receipt.

(9) If DPNR cannot approve the site plan, DPNR shall return the plan with a written explanation of the deficiencies and instructions for their correction. Upon notification of DPNR's disapproval of a site plan, the water system has fifteen (15) days to revise and resubmit the plan to DPNR.

(10) If after resubmission a site plan is not approved by DPNR, DPNR may consider the water system to be out of compliance with the requirements of this section.

(11) If the resubmitted site plan is disapproved, DPNR retains the right to modify the plan; and the water supplier shall implement the plan as modified by DPNR. DPNR is the final arbiter in any dispute regarding the adequacy of any site plan and any activities performed under this section and shall resolve any such dispute in the best interest of the public. DPNR retains the right to modify an approved site plan as required to abate water contamination. Notwithstanding, DPNR shall provide the water system an opportunity for a hearing on the matter.

(12) A public water system shall maintain an approved site plan at the system's premises or at a location readily accessible to the system and to DPNR's personnel.

(13) If a water system plans to modify the configuration of the system, the owner or operator of the system shall notify DPNR and submit a revised site plan to reflect the modification within sixty (60) days of such planned modification in accordance with the procedures established under paragraphs 2-8 of this subsection.

(14) DPNR shall routinely review site plans during sanitary surveys and site visits and as the Commissioner finds necessary to protect the public

health.

(15) A public water system shall collect total coliform samples at sites that are representative of the water throughout the distribution system according to a written sample site plan.

(b) Total Coliform Monitoring Frequency For Community Public Water Systems.

The monitoring frequency for total coliforms for community water systems is based on the population served by the system, as shown in Table 1 to these Rules.

(c) Monitoring for Non-Community Systems

The monitoring frequency for total coliforms for non-community water systems is as follows:

(1) A non-community water system using only ground water (except ground water under the direct influence of surface water, as defined in 40 CFR 141.2) and serving one thousand (1,000) persons or fewer shall monitor each calendar quarter that the system provides water to the public if approved to monitor quarterly by DPNR. If not approved to monitor quarterly by DPNR, systems shall monitor monthly. Systems collecting samples on a quarterly frequency must conduct additional routine monitoring the month following one (1) or more total coliform-positive samples. Systems must collect at least three (3) routine samples during the next month, except that DPNR may waive this requirement. Systems must use the results of additional routine samples in coliform treatment technique trigger calculations under 40 CFR 141.859(a). A quarterly monitoring schedule can be maintained under the following conditions:

(A) Beginning April 1, 2016, DPNR shall perform a special monitoring evaluation during each sanitary survey to review the status of the system, including the distribution system, to determine whether the system is on an appropriate monitoring schedule. After DPNR has performed the special monitoring evaluation during each sanitary survey, DPNR may modify the

system's monitoring schedule, as necessary, or it may allow the system to stay on its existing monitoring schedule.

(B) A system on quarterly monitoring which experiences any of the following events must begin monthly monitoring the month following the event:

- (i) the system triggers a Level 2 assessment or two Level 1 assessments under the provisions of 40 CFR 141.859 in a rolling 12-month period;
- (ii) the system has an *E. coli* MCL violation;
- (iii) the system has a coliform treatment technique violation;
or
- (iv) the system has two coliform monitoring violations or one coliform monitoring violation and one Level 1 assessment under the provisions of 40 CFR 141.859 in a rolling 12-month period.

The system must continue monthly monitoring until the requirements in paragraph (C) of this subsection are met.

(C) DPNR may reduce the monitoring frequency for a system on monthly monitoring triggered under paragraph (B) of this subsection to quarterly monitoring if, within the last 12 (twelve) months, DPNR completed a sanitary survey, site visit, or voluntary Level 2 assessment and the system was free of sanitary defects and has a protected water source. The system must also have a clean compliance history for a minimum of 12 (twelve) months.

(2) A non-community water system using only ground water (except ground water under the direct influence of surface water, as defined in 40 CFR 141.2) and serving more than one thousand (1,000) persons during any month shall monitor at the same frequency as a like-sized community water system, as specified in this section under (b). For systems using ground water under the direct influence of surface water, paragraph (4) of this subsection applies.

(3) A non-community water system using surface water, in total or in part, shall monitor at the same frequency as a like-sized community water system, as specified in this section under (b) regardless of number of persons served.

(4) A non-community water system using ground water under the direct influence of surface water, as defined in 40 CFR 141.2, shall monitor at the same frequency as a like-sized community water system, as specified in this section under (b). The system shall begin monitoring at this frequency beginning three (3) months after DPNR determines that the ground water is under the direct influence of surface water.

(5) The public water system shall collect samples at regular time intervals throughout the month, except that a system which uses only ground water (except ground water under the influence of surface water, as defined in 40 CFR 141.2), and serves four thousand nine hundred (4,900) persons or fewer, may collect all required samples on a single day if they are taken from different sites, and DPNR does not prescribe a different schedule of sampling.

(6) A public water system that uses surface water or ground water under the direct influence of surface water, as defined in 40 CFR 141.2, and does not practice filtration in compliance with Subpart H of 40 CFR shall collect at least one (1) sample near the first service connection each day the turbidity level of the source water, measured as specified in 40 CFR 141.74(b)(2), exceeds one (1) NTU. This sample must be analyzed for the presence of total coliforms. When one (1) or more turbidity measurements in any day exceed one (1) NTU, the system shall collect this coliform sample within twenty-four (24) hours of the first exceedance. Sample results from this coliform monitoring are included in determining whether the coliform treatment technique trigger in 40 CFR 141.859 has been exceeded.

(d) Special Purpose Samples.

Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement, or repair shall not be used to determine whether the coliform treatment technique trigger in 40 CFR

141.859 has been exceeded. Repeat and DPNR collected surveillance samples taken pursuant to paragraph (e) of this section are not considered special purpose samples and must be used to determine whether the coliform treatment technique trigger in 40 CFR 141.859 has been exceeded.

(e) Repeat Monitoring.

(1) If a routine or surveillance monitoring sample collected by DPNR is total coliform-positive, the public water system shall collect a set of repeat samples within twenty-four (24) hours of being notified of the positive result. DPNR shall waive the twenty-four (24) hour resampling period when a force majeure event occurs. DPNR shall extend the time of resampling to the first business day after the force majeure event is over. The system shall collect no fewer than three (3) repeat samples for each total coliform-positive sample found.

(2) The system shall collect at least one (1) repeat sample from the sampling tap where the original total coliform-positive sample was taken, and at least one (1) repeat sample at a tap within five (5) service connections upstream and at least one (1) repeat sample at a tap within five (5) service connections downstream of the original sampling site.

(3) The system shall collect all repeat samples on the same day, except that a system with a single service connection shall collect the required set of repeat samples over a three-day period or subject to DPNR's approval, may collect a larger volume repeat sample(s) in one (1) or more sample containers of any size, as long as the total volume collected is at least three hundred (300) milliliters.

(4) If one (1) or more repeat samples in the set is total coliform-positive, the public water system shall collect an additional set of repeat samples in the manner specified in paragraphs (e)(1)-(3) of this section. The additional samples must be collected within twenty-four (24) hours of being notified of the positive result. DPNR shall waive the twenty-four (24) hour resampling period in an event of force majeure. DPNR shall extend the time for resampling to the first business day after the force majeure event is over. The system shall repeat this process until either total coliforms are not

detected in one (1) complete set of repeat samples or the system exceeds the coliform treatment technique trigger specified in 40 CFR 141.859 and notifies DPNR.

(5) After a system collects a routine sample, and before it learns the results of the analysis of that sample, if it collects another routine sample(s) from within five (5) adjacent service connections of the initial sample, and the initial sample after analysis is found to contain total coliforms, then the system may count the subsequent sample(s) as a repeat sample instead of as a routine sample.

(6) Once all coliform and *E. coli* monitoring for a calendar month has been completed, DPNR shall determine for each system whether any coliform treatment technique triggers specified in 40 CFR 141.859 have been exceeded. If any trigger has been exceeded, systems must complete assessments as required by 40 CFR 141.859. In determining whether a coliform treatment technique trigger specified in 40 CFR 141.859 has been exceeded, DPNR shall include results of all routine and repeat samples, DPNR-collected surveillance samples and all samples that have not been invalidated.

(f) Invalidation of total coliform samples.

A total coliform-positive sample invalidated under this paragraph does not count towards meeting the minimum monitoring requirements of this section.

(1) DPNR shall invalidate a total coliform-positive sample only if the conditions of paragraph (A), (B), or (C) of this section are met. DPNR may not invalidate a total coliform-positive sample solely on the ground that all repeat samples are total coliform-negative.

(A) The laboratory establishes that improper sample analysis caused the total coliform-positive result.

(B) DPNR on the basis of the results of repeat samples collected as required by paragraphs (1)-(4) of this section under (e), determines that the total coliform-positive sample resulted from a domestic or other non-distribution system plumbing problem. DPNR may not

invalidate a sample on the basis of repeat sample results, unless all repeat samples collected at the same tap as the original total coliform-positive sample are also total coliform-positive, and all repeat samples collected within five (5) service connections of the original tap are total coliform-negative (e.g., DPNR shall invalidate a total coliform-positive sample on the basis of repeat samples if all the repeat samples are total coliform-negative, or if the public water system has only one (1) service connection).

(C) DPNR has substantial grounds to believe that a total coliform-positive result is due to a circumstance or a condition which does not reflect water quality in the distribution system. In this case, the system shall still collect all repeat samples required under paragraphs (1)-(4) of this section under (e) and use them to determine whether a coliform treatment technique trigger in 40 CFR 141.859 has been exceeded.

(D) To invalidate a total coliform-positive sample under this subsection, the Commissioner shall issue a written, signed Notice of Invalidation, which states the specific cause of the total coliform-positive sample and specifies the actions taken or to be taken by the system to correct the problem. The Notice of Invalidation must be made available to EPA and the public.

(2) A laboratory shall invalidate a total coliform sample (unless total coliforms are detected) if the sample:

(A) produces a turbid culture in the absence of gas production using an analytical method where gas formation is examined (e.g., the Multiple-Tube Fermentation Technique);

(B) produces a turbid culture in the absence of an acid reaction in the Presence-Absence (P-A) Coliform Test; or

(C) exhibits confluent growth or produces colonies too numerous to count with an analytical method using a membrane filter (e.g. Membrane Filter Technique).

If a laboratory invalidates a sample because of such interference, the system shall collect another sample from the same location as the original sample within twenty-four (24) hours of being notified of the interference problem and have it analyzed for the presence of total coliforms. The system shall continue to re-sample within twenty-four (24) hours and have the samples analyzed until it obtains a valid result. The Commissioner shall waive the twenty-four (24) hour time limit for reasons of force majeure on a case-by-case basis.

(g) Sanitary Surveys.

(1) Public water systems which do not collect five (5) or more routine samples/month shall undergo an initial sanitary survey by June 29, 1994 for community public water systems and June 24, 1996 for non-community water systems. Thereafter, a system shall undergo another sanitary survey every five (5) years. DPNR shall review the results of each sanitary survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the system needs to undertake to improve drinking water quality.

(2) In conducting a sanitary survey of a system using ground water in a State having an EPA-approved wellhead protection program under section 1428 of the Safe Drinking Water Act, information on sources of contamination within the delineated wellhead protection area that was collected in the course of developing and implementing the program should be considered instead of collecting new information, if the information was collected since the last time the system was subject to a sanitary survey.

(3) Sanitary surveys shall be performed by DPNR personnel.

(4) The provisions of 40 CFR 141.401, as in effect December 1, 2009, are hereby adopted by reference.

(h) *Escherichia coli* (*E. coli*) testing.

(1) If any routine, repeat, or DPNR collected surveillance sample is total coliform-positive, the system or DPNR, as appropriate, shall analyze that

total coliform-positive culture medium to determine if *E. coli* are present. If *E. coli* are present, the system shall notify DPNR by the end of the day when the system is notified of the test result. If the system is notified of the result after the DPNR office is closed, the system shall notify DPNR before the end of the next business day.

(2) DPNR has the discretion to allow a system, on a case-by-case basis, to forgo *E. coli* testing on a total coliform-positive sample if that system assumes that the total coliform-positive sample is *E. coli*-positive.

(i) Analytical methodology.

(1) The standard sample volume required for total coliform analysis regardless of analytical method used is one hundred (100) milliliters.

(2) A public water system need only determine the presence or absence of total coliforms and *E. coli*. A determination of total coliform or *E. coli* density is not required.

(3) The time from sample collection to initiation of analysis may not exceed thirty (30) hours. Systems are encouraged but not required to hold samples below ten (10) degrees Celsius during transit.

(4) If water having residual chlorine (measured as free, combined, or total chlorine) is to be analyzed, sufficient sodium thiosulfate must be added to the sample bottle before sterilization to neutralize any residual chlorine in the water sample. Dechlorination procedures are addressed in Section 9060A.2 of Standard Methods for the Examination of Water and Wastewater (20th and 21st editions).

(5) Public water systems must conduct total coliform and *E. coli* analyses in accordance with one of the analytical methods in Table 2.

(6) The following materials are incorporated by reference in this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51:

(A) Copies of the analytical methods cited in Standard Methods for

the Examination of Water and Wastewater (20th and 21st editions) may be obtained from the American Public Health Association et al., 800 I Street NW, Washington, DC 20001;

(B) A description of the E*Colite test is provided in “Charm E*Colite™ Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Drinking Water”, January 9, 1998, available from Charm Sciences, Inc., 659 Andover Street, Lawrence, MA 01843–1032;

(C) A description of the modified Colitag, ATP D05–0035 test is provided in “Modified Colitag™ Test Method for the Simultaneous Detection of E. coli and other Total Coliforms in Water,” August 28, 2009, available from CPI International, Inc., 5580 Skylane Blvd., Santa Rosa, CA, 95403;

(D) A description of the Chromocult test is provided in “Chromocult® Coliform Agar Presence/Absence Membrane Filter Test Method for Detection and Identification of Coliform Bacteria and Escherichia coli for Finished Waters,” November 2000, Version 1.0 from EMD Millipore, 290 Concord Road, Billerica, MA 01821:

(E) A description of the Readycult test is described in “Readycult® Coliforms 100 Presence/Absence Test for Detection and Identification of Coliform Bacteria and Escherichia coli in Finished Waters,” January 2007, Version 1.1 from EMD Millipore, 290 Concord Road, Billerica, MA 01821;

(F) EPA Method 1604 is provided in EPA 821–R–02–024 “EPA Method 1604: Total Coliforms and Escherichia coli in Water by Membrane Filtration Using a Simultaneous Detection Technique (MI Medium),” September 2002, at <http://www.epa.gov/nerlcwww/1604sp02.pdf> and also available from EPA’s Water Resource Center (MC–4100T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; and

(G) The m-ColiBlue24 method is described in “Membrane

Filtration Method m-ColiBlue24® Broth,” Revision 2, August 17, 1999, available from Hach Company, P.O. Box 389, Loveland, CO 80539.

(j) Response to violation.

(1) A public water system is in violation of the MCL for *E. coli* when any of the conditions described in (A) through (D) of this subsection occur. The system shall report the violation to DPNR no later than the end of the next business day after the system learns of the violation and shall notify the public in accordance with Subpart Q of the 40 CFR.

(A) The system has an *E. coli*-positive repeat sample following a total coliform-positive routine sample.

(B) The system has a total coliform-positive repeat sample following an *E. coli*-positive routine sample.

(C) The system fails to take all required repeat samples following an *E. coli*-positive routine sample.

(D) The system fails to test for *E. coli* when any repeat sample tests positive for total coliform.

(2) The public water system that has failed to comply with the sampling site plan requirements, failed to conduct all required monitoring, failed to notify DPNR following an *E. coli*-positive sample, or failed to submit a monitoring report in a timely manner shall report the violation to DPNR within two (2) days after the system discovers, or should have discovered, the violation and shall notify the public in accordance with Subpart Q of the 40 CFR.

(3) A public water system incurs a treatment technique violation when the system exceeds a treatment technique trigger specified in 40 CFR 141.859(a) then fails to conduct the required assessment or corrective actions within the timeframe specified in 40 CFR 141.859(b) and (c). Failure to submit a completed assessment form after a system properly

conducts monitoring or assessment in a timely manner is a reporting violation. The public water system shall report the violation to DPNR within two (2) days after the system discovers, or should have discovered, the violation and shall notify the public in accordance with Subpart Q of the 40 CFR

§ 1303-42. Inorganic chemical sampling and analytical requirements

Each person who operates a public water supply system shall comply with the sampling and analytical requirements specified in 40 CFR 141.23, as in effect on July 1, 2007 and hereby adopted by reference with the following exception: the effective date for the arsenic MCL of January 23, 2006, is replaced by January 1, 2006.

§ 1303-43. Organic chemicals other than trihalomethanes, sampling and analytical requirements

The provisions of 40 CFR 141.24, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-44. Analytical methods for radioactivity

The provisions of 40 C.F.R 141.25, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-45. Monitoring frequency for radioactivity in community water systems

The provisions of 40 C.F.R 141.26, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-46. Alternative analytical technique

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The provisions of 40 C.F.R 141.27, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-47. Approved laboratories

The provisions of 40 C.F.R 141.28 and 40 CFR 141.852, as in effect on April 1, 2016, are hereby adopted by reference.

§ 1303-48. Monitoring of consecutive public water systems

The provisions of 40 C.F.R 141.29, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-49. Reporting requirements

(a) The provisions of 40 CFR 141.31, as in effect on July 1, 2007, are hereby adopted by reference.

(b) The provisions of 40 CFR 141.90, as in effect on July 1, 2007, are hereby adopted by reference.

(c) The provisions of 40 CFR 141.405(a), as in effect on December 1, 2009, are hereby adopted by reference.

(d) The provisions of 40 CFR 141.861(a), as in effect on April 1, 2016, are hereby adopted by reference.

§ 1303-50. Record maintenance

(a) The provisions of 40 C.F.R 141.33, as in effect on July 1, 2007, are hereby adopted by reference.

(b) The provisions of 40 CFR 141.405(b), as in effect on December 1, 2009, are hereby adopted by reference, with the exception of 40 CFR 141.405(b)(4),

which is adopted by reference as in effect on April 1, 2016.

- (c) The provisions of 40 CFR 141.861(b), as in effect on April 1, 2016, are hereby adopted by reference.

§ 1303-51. Special monitoring for sodium

The provisions of 40 C.F.R 141.41, as in effect on July 1, 2007, are hereby adopted by reference.

§ 1303-52. Special monitoring for corrosivity characteristics

The provisions of 40 C.F.R 141.42, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-53. General requirements for the control of lead and copper

The provisions of 40 C.F.R 141.80, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-54. Applicability of corrosion control treatment steps to small, medium-size and large water systems for the control of lead and copper

The provisions of 40 C.F.R 141.81, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-55. Description of corrosion control treatment requirements for the control of lead and copper

The provisions of 40 C.F.R 141.82, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-56. Source water treatment requirements for the control of lead and copper

The provisions of 40 C.F.R 141.83, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-57. Lead service line replacement requirements for the control of lead and copper

The provisions of 40 C.F.R 141.84, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-58. Public education and supplemental monitoring requirements for the control of lead and copper

The provisions of 40 C.F.R 141.85, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-59. Monitoring requirements for lead and copper in tap water

The provisions of 40 C.F.R 141.86, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-60. Monitoring requirements for water quality parameters for the control of lead and copper

The provisions of 40 C.F.R 141.87, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-61. Monitoring requirements for lead and copper in source water

The provisions of 40 C.F.R 141.88, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-62. Analytical methods for the control of lead and copper

The provisions of 40 C.F.R 141.89, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-63. Maximum contaminant levels for disinfection byproducts

The provisions of 40 C.F.R 141.64, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-64. Maximum residual disinfectant levels

The provisions of 40 C.F.R 141.65, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-65. General requirements for filtration and disinfection

The provisions of 40 C.F.R 141.70, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-66. Criteria for avoiding filtration

The provisions of 40 C.F.R 141.71, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-67. Disinfection

The provisions of 40 C.F.R 141.72, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-68. Filtration

The provisions of 40 C.F.R 141.73, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-69. Filtration and disinfection: analytical and monitoring requirements

The provisions of 40 C.F.R 141.74, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-70. Filtration and disinfection: reporting and recordkeeping requirements

The provisions of 40 C.F.R 141.75, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-71. Filter recycling requirements

The provisions of 40 C.F.R 141.76, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-72. Recordkeeping requirements for lead and copper control

The provisions of 40 C.F.R 141.91, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-73. General requirements for treatment techniques

- (a) The provisions of 40 C.F.R 141.110, as in effect on July 1, 2007, are hereby adopted by reference.
- (b) The provisions of 40 CFR 141.403 and 141.404, as in effect on December 1, 2009, are hereby adopted by reference.

(c) The provisions of 40 CFR 141.859, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-74. Treatment techniques for acrylamide and epichlorohydrin

The provisions of 40 C.F.R 141.111, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-75. Disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors: general requirements

The provisions of 40 C.F.R 141.130, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-76. Disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors: analytical requirements

The provisions of 40 C.F.R 141.131, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-77. Disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors: monitoring requirements

The provisions of 40 C.F.R 141.132, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-78. Disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors: compliance requirements

The provisions of 40 C.F.R 141.133, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-79. Disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors: reporting and recordkeeping requirements

The provisions of 40 C.F.R 141.134, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-80. Treatment technique for control of disinfection byproduct precursors

The provisions of 40 C.F.R 141.135, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-81. Applicability of requirement for consumer confidence reports

The provisions of 40 C.F.R 141.151 and appendix A to subpart O of Part 141, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-82. Effective dates for required consumer confidence reports

The provisions of 40 C.F.R 141.152, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-83. Content of consumer confidence reports

The provisions of 40 C.F.R 141.153, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-84. Required additional health information for consumer confidence reports

The provisions of 40 C.F.R 141.154, as in effect on July 1, 2007, are hereby adopted by reference with the following exception: the January 22, 2006 date listed in 141.154(f) for consumer confidence reporting requirements for arsenic shall

instead be December 31, 2005.

§1303-85. Report delivery and recordkeeping for consumer confidence reports

The provisions of 40 C.F.R 141.155, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-86. General requirements for enhanced filtration and disinfection for subpart H systems serving at least 10,000 people

The provisions of 40 C.F.R 141.170, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-87. Criteria for avoiding filtration for subpart H systems serving at least 10,000 people

The provisions of 40 C.F.R 141.171, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-88. Disinfection profiling and benchmarking for subpart H systems serving at least 10,000 people

The provisions of 40 C.F.R 141.172, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-89. Enhanced filtration requirements for subpart H systems serving at least 10,000 people

The provisions of 40 C.F.R 141.173, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-90. Enhanced filtration sampling requirements for subpart H systems serving at least 10,000 people

The provisions of 40 C.F.R 141.174, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-91. Enhanced filtration and disinfection reporting and recordkeeping requirements for subpart H systems serving at least 10,000 people

The provisions of 40 C.F.R 141.175, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-92. General Requirements for Public Notification

Each person who operates a public water supply system shall comply with 40 C.F.R 141.201 and appendices A, B, and C to subpart Q of part 141, as in effect on April 1, 2016 and hereby adopted by reference.

§1303-93. Tier 1 public notice - form, manner, and frequency of notice

The provisions of 40 C.F.R 141.202, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-94. Tier 2 public notice - form, manner, and frequency of notice

The provisions of 40 C.F.R 141.203, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-95. Tier 3 public notice - form, manner, and frequency of notice

The provisions of 40 C.F.R 141.204, as in effect on April 1, 2016, are hereby adopted by reference.

§1303-96. Content of public notice

The provisions of 40 C.F.R 141.205, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-97. Notice to new billing units or new customers

The provisions of 40 C.F.R 141.206, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-98. Special notice of availability of results of unregulated contaminant monitoring

Each person operating a public water supply system that is required to monitor for unregulated contaminants under 40 CFR 141.40 shall comply with the provisions of 40 C.F.R 141.207, as in effect on July 1, 2007 and hereby adopted by reference.

§1303-99. Special notice exceedance of the SMCL for fluoride

The provisions of 40 C.F.R 141.208, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-100. Special notice for nitrate exceedances above MCL by NCWSS

The provisions of 40 C.F.R 141.209, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-101. Notice by department on behalf of the public water supply system

The provisions of 40 C.F.R 141.210, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-102. General requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.500, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-103. Applicability of general requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.501, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-104. Effective dates of requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.502, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-105. Compliance criteria for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.503, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-106. Identifying applicable systems for new finished water reservoir requirements for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.510, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-107. New finished water reservoir requirements for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.511, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-108. Identifying applicable systems for updated watershed control requirements for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.520, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-109. Updated watershed control requirements for unfiltered subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.521, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-110. State determination of adequate updated watershed control requirements for unfiltered subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.522, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-111. Disinfection profiling for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.530, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-112. Criteria for avoiding disinfection profiling in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.531, as in effect on July 1, 2007, are hereby

adopted by reference.

§1303-113. Effective dates for required disinfection profiling in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.532, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-114. Collection of disinfection profile data for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.533, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-115. Calculation of inactivation ratio for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.534, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-116. Inactivation ratio for viruses in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.535, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-117. Retention of disinfection profile data for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.536, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-118. Disinfection benchmark for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.540, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-119. Significant changes to disinfection practice in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.541, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-120. Consultation regarding significant change to disinfection practice for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.542, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-121. Calculation of disinfection benchmark for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.543, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-122. Disinfection benchmark for primary disinfectants other than chlorine for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.544, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-123. Requirements for combined filter effluent turbidity in subpart H systems serving fewer than 10,000 people

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The provisions of 40 C.F.R 141.550, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-124. Limits for strengthened combined filter effluent turbidity in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.551, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-125. Alternative filtration demonstration for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.552, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-126. Special provisions for combined filter effluent in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.553, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-127. Requirements for individual filter turbidity in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.560, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-128. Contingency requirements for individual filter turbidity in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.561, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-129. Special provision for continuous monitoring of combined filter effluent turbidity in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.562, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-130. Follow-up actions to monitoring of individual filter turbidity for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.563, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-131. Special provision for alternative turbidity exceedance levels in subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.564, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-132. Reporting requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.570, as in effect on July 1, 2007, are hereby adopted by reference.

§1303-133. Recordkeeping requirements for enhanced filtration and disinfection for subpart H systems serving fewer than 10,000 people

The provisions of 40 C.F.R 141.571, as in effect on July 1, 2007, are hereby adopted by reference.

* * *

§1309-1. Administrative assessment of civil fines and penalties

(a) Purpose and Scope. This section implements Title 19, Virgin Islands Code (VIC), Chapter 51, Section 1309(c) by establishing procedures for the administrative assessment of civil penalties for violations of the Safe Drinking Water Act.

(b) Authority. These Rules are promulgated pursuant to authority contained in Title 19, VIC, Chapter 51, Section 1309(c).

(c) Definitions.

(1) Words used in the singular form in this subchapter shall include the plural, and vice versa, as the case may require. Words defined in the Act but not defined below shall have the meaning given them in the Act.

(2) In the context of these Rules, the following words and phrases shall be construed as having the following meaning, except as the context clearly requires otherwise:

(A) “Act” means the Virgin Islands Safe Drinking Water Act, as amended;

(B) “Adjudication” means the Department's process for formulating a final administrative decision.

(C) “Commissioner” means the Commissioner of the Department of Planning and Natural Resources.

(D) “Decision” means an initial or final decision of the Hearing Officer.

(E) “Department” means the Department of Planning and Natural Resources.

(F) “Final administrative decision” means an Order or decision of the Department which is not subject to further Departmental review under this subchapter and which is subject to collection proceedings and judicial

review in an appropriate court, as authorized by law.

(G) “Hearing Officer” means any person designated by the Commissioner to preside over hearings under this subchapter.

(H) “Initial decision” means a decision of the Hearing Officer which, under applicable statute and regulation, is subject to review by the Commissioner, but which becomes the final administrative decision in the absence of such review.

(I) “Notice of Violation and Assessment” or “NOVA” means a written notice issued by the Commissioner or his designee, which accuses a Respondent of violating the Act and assesses a civil penalty for the violation.

(J) “Party” means a Respondent or the Department. Also, it includes joint and several Respondents and any other person allowed to participate in any hearing.

(K) “Person” means any individual, corporation, or governmental body, other than a party, competent to make an oath or affirmation, offer testimony and otherwise assist in the adjudication process.

(L) “Respondent” means the person of entity accused of violation of the Act.

(M) “Rules” means these rules and regulations; and

(N) “Sanction” means imposition of a penalty or fine or taking other compulsory or restrictive action.

(d) Procedures.

(1) In general, the requirements of due process are met when the responding party is afforded:

- (A) Timely and adequate notice;
- (B) A hearing or other opportunity to confront adverse witnesses and present oral evidence on his own behalf;
- (C) The right to be accompanied, represented and advised by counsel or other representative;
- (D) A determination or decision based solely on the record and that identifies the evidence relied upon and specifies the reasons for the decision; and
- (E) An impartial decision maker.

(e) Notice of Violation and Assessment.

(1) A NOVA is issued by the Commissioner or his designate and served personally or by mail, return receipt requested, upon each Respondent. The NOVA is required to contain:

- (A) A concise statement of the facts believed to show a violation;
- (B) Specific reference to the provisions of the Act, regulation, permit, or order allegedly violated;
- (C) The findings and conclusions upon which the Department bases the assessments;
- (D) The amount of civil penalty assessed; and
- (E) A copy of the regulations in this section governing the proceedings.

The NOVA also must advise the respondent of his rights upon receipt of the

NOVA.

(2) In assessing a civil penalty, the Department takes into account information available to the Department concerning any factor to be considered under the applicable statute, and any other information that justice or the purposes of the statute require.

(f) Procedure Upon Receipt of a NOVA.

(1) The Respondent has thirty (30) days from receipt of the NOVA in which to respond. During this time, the Respondent may:

(A) Accept the penalty by taking the actions specified in the NOVA;

(B) Seek to have the NOVA amended, modified, or rescinded under paragraph (f)(2) herein;

(C) Request a hearing or an informal settlement conference under paragraph (f)(5)(A) herein;

(D) Request an extension of time under paragraph (f)(3) herein; or

(E) Take no action, in which case the NOVA becomes final in accordance with Section 1309-1(g).

(2) The Respondent may seek amendment or modification of the NOVA to conform with the facts or law as that person sees them by notifying the Department's official specified in the NOVA. Where amendment or modification is sought, the Department's official will either amend the NOVA or decline to amend it, and so notify the Respondent, as appropriate in writing.

(3) The Respondent, within the thirty (30) day period specified in paragraph (f)(1) of this section, may request an extension of time to respond. The Department's official may grant an extension of up to thirty (30) days, unless the official determines that the Respondent could, exercising reasonable diligence, respond within the thirty (30) day period.

Where the Department's official does not respond to the request within

seventy-two (72) hours of its receipt, the request is granted automatically for the extension requested, up to maximum of thirty (30) days. A response to the request by telephone within seventy-two (72) hours of receipt, followed by a written confirmation, is an effective response.

- (4) The Department's official may, for good cause, grant an additional extension beyond the thirty (30) day period specified in paragraph (f)(3) of this section.
- (5) Where the Respondent desires a hearing, he shall mail to the address specified in the NOVA or serve in person a written and dated request. The request shall include a copy of the NOVA or refer to the relevant case by name and/or number. The Department's official shall promptly forward the request for hearing to the Commissioner for scheduling.
- (6) Where the Respondent desires to refrain from litigation of the matter and to reach an early dissolution of the environmental problem without being required to make any admissions of law or fact, he may request an informal settlement conference by following the same procedures established in paragraph (f)(5) of this section.

(g) Final Departmental Decision.

- (1) If no request for hearing is timely filed, as provided in Section 1309-1(f)(1)(C), the NOVA becomes effective as the final administrative decision and order of the Department on the thirtieth (30th) day after service of the NOVA or on the last day of any period of delay granted by the Department.
- (2) Where a request for hearing is timely filed in accordance with Section 1309-1(f)(5), the date of the Final Departmental Decision is thirty (30) days after service of the written decision upon the respondent.

(h) Payment of Final Assessment.

- (1) Respondent shall make full payment of the civil penalty assessed within thirty (30) days of the date upon which the assessment becomes effective as the Final Departmental Decision and Order of the Department of Planning and Natural Resources. The respondent is required to mail or deliver to the Department a certified check, cashier's check or money order

made payable in United States currency in the amount of the assessment to the Department of Planning and Natural Resources.

(2) Upon any failure to pay the civil penalty assessed, the Department may request the Department of Justice to recover the amount assessed in the appropriate court of the Virgin Islands, or the Department may take action under Section 1309-1(i).

(i) **Compromise of Civil Penalty.** The Department, in its sole discretion, may compromise, modify, remit, or mitigate with or without conditions, any civil penalty imposed, or which is subject to imposition.

(j) **Factors Considered in Assessing Penalties.**

(1) Factors to be taken into account in assessing a penalty may include:

(A) the nature, circumstances, extent and gravity of the alleged violation;

(B) the Respondent's degree of culpability and history of prior offenses; and

(C) such other matters as justice may require.

(k) **Administrative Hearing.**

(1) **Scope of Applicability.** This section sets forth the procedures governing the conduct of hearings and the issuance of initial and final decisions of the Department in administrative proceedings involving alleged violations of the Act and its implementing regulations.

(2) **Case Docketing.** Each request for hearing, promptly upon its receipt for filing in the Office of the Commissioner, will be assigned a docket number and, thereafter, the case will be referred to by this number. Written assignment to a Hearing Officer and notice of date, time and place of the hearing are promptly given to the parties.

(3) **Duties and Powers of the Hearing Officer.** The Hearing Officer is designated by the Commissioner and has all powers and responsibilities necessary to preside over the parties and the proceedings, to hold pre-

hearing conferences, to conduct the hearing, and to make the decision in accordance with these Rules, including, but not limited to the authority and duty to do the following:

(A) Rule on a request to participate as a party in the proceeding by allowing, denying or limiting the participation (the ruling considers the views of the parties and is based on whether the requester can be expected to contribute materially to the disposition of the proceedings);

(B) In the Hearing Officer's discretion, having due regard for the convenience and necessity of the parties and witnesses to schedule the time, place and manner of conducting the hearing, to continue or adjourn the hearing to a later date or different place, and reopen the hearing at any time before issuance of the decision;

(C) Schedule and regulate the course of the hearing and the conduct of the participants;

(D) Administer oaths and affirmations to witnesses;

(E) Rule on motions, procedural requests, and similar matters;

(F) Examine and cross-examine witnesses and introduce into the record on the hearing official's own initiative, documentary or other evidence;

(G) Rule on requests for appearance of witnesses or production of documents or requests for Admissions and take appropriate action upon failure of a party to effect the appearance or production of a witness or document ruled relevant and necessary to the proceedings; and, as authorized by law, issue subpoenas for the appearance of witnesses or production of documents;

(H) Take official notice of any matter not appearing in evidence that is among traditional matters of judicial notice; or technical or scientific facts within the general specialized knowledge of the Department of Planning & Natural Resources as an expert body; or any reasonably available public document on condition that the parties are advised of the matter noticed;

- (I) Prepare and submit a decision or other appropriate disposition document and certify the record; and
 - (J) Grant preliminary or interim relief.
- (4) Recusal of Hearing Officer.
- (A) The Hearing Officer may recuse himself or herself from a particular case when the Hearing Officer deems recusal appropriate.
 - (B) A party may in good faith request the Hearing Officer to withdraw on the ground of personal bias or other disqualification. The party seeking the recusal is required to file with the Hearing Officer a timely affidavit or statement setting forth in detail the facts alleged to constitute the grounds for disqualification, and the Hearing Officer is required to rule on the matter. If the Hearing Officer rules against recusal, the Hearing Officer is required to place all matters relating to such claims of disqualification in the record.
- (5) Appearances.
- (A) A party may appear in person or by or with counsel or other representative.
 - (B) Where a party fails to appear after proper notice, the Hearing Officer may consider the failure of the party to appear a waiver of any right to a hearing and consent to the making of a decision on the record.
- (6) Conduct of the Hearing. The Hearing Officer shall provide the respondent with an opportunity for a fair, open and impartial hearing. The Respondent has the right and the Hearing Officer is required to afford the opportunity to defend and meet the claims or allegations of violations by argument, proof, and cross-examination of witnesses. The Hearing Officer shall make findings of fact and conclusions of law and enter an order in accordance with the facts provided at the hearing. The Department, in accordance with well-settled law, is not held to strict conformity with judicial procedure required in a court of law and a hearing may be fair even though informal or summary. However, the Hearing Officer shall provide a

hearing in which ample opportunity is given to all parties to make, by evidence and argument, a showing fairly adequate to establish, from a standpoint of justice, the steps asked to be taken. The Hearing Officer, before entering his order on the basis of the record and recommendations, shall provide opportunity to the parties to submit for his consideration objections to the recommended findings or conclusions and supporting reasons for the objections; such submission to be made within ten (10) days of issuance. The Hearing Officer shall issue written notice of this order to the Respondent. The order of the Hearing Officer is final and binding on all parties unless appealed or otherwise presented for judicial review to the courts within thirty (30) days after notice has been sent to the Respondent.

(7) Initial and Final Decisions.

(A) The Hearing Officer shall issue a written decision upon the record in the case, setting forth:

(i) Findings and conclusions, and the reasons or basis for them on all matters of fact, law or discretion presented in the record, and the rulings on any proposed findings or conclusions presented by the parties;

(ii) A statement of facts noticed or relied upon in the decision; and

(iii) Such other matters as the Hearing Officer considers appropriate.

(B) The Hearing Officer may at the conclusion of the hearing announce the decision, subject to later issuance of a written decision.

(C) The Hearing Officer shall serve the written decision on each of the parties personally or by mail, return receipt requested, and shall promptly certify to the Commissioner the record, including the original copy of the decision, as complete and accurate.

(D) Unless the Hearing Officer orders a stay, a petition for discretionary review is filed, or the Commissioner issues an order to review upon his own initiative, an initial decision becomes effective as the final administrative decision of the Department of Planning &

Natural Resources thirty (30) days after service.

(8) Administrative Review of Decision.

(A) Subject to the requirements of this section, any party may petition for review of an initial decision of the Hearing Officer within fifteen (15) days after the date the decision is served. The petitioner shall address the petition to the Commissioner and file at the main office of the Department of Planning & Natural Resources.

(B) Review by the Commissioner of an initial decision is discretionary and is not a matter of right. A petition for review is to be served upon all parties. Where a party files a timely petition for discretionary review, or action to review is taken by the Commissioner upon his own initiative, the effectiveness of the initial decision is stayed until further order of the Commissioner.

(C) Petitions for discretionary review may be filed only upon one (1) or more of the following grounds:

(i) A finding of a material fact is clearly erroneous based upon the evidence in the record;

(ii) A necessary legal conclusion is contrary to law or precedent;

(iii) A substantial and important question of law, policy or discretion is involved, including the amount of the civil penalty;
or

(iv) A prejudicial procedural error has occurred.

(D) Each issue is required to be separately numbered, concisely stated, and supported by detailed citations to the record, statutes, and regulations. Issues of law or fact not argued before the Hearing Officer may not be raised on review unless they were raised for the first time in the initial decision or could not reasonably have been foreseen and raised by the parties during the hearing. The Commissioner shall not consider new or additional evidence that is not a part of the record before the Hearing Officer.

(E) No oral argument on petitions for discretionary review is allowed.

(F) Where the Commissioner declines to exercise discretionary review, the order is served on all parties personally or by mail, return receipt requested, and specifies the date upon which the Hearing Officer's decision becomes effective as the Final Decision of the Department of Planning & Natural Resources. The Commissioner need not give reasons for declining review.

(G) Where the Commissioner grants a petition for discretionary review, he shall issue an order specifying the issues to be argued in written form and the date by which written arguments are to be filed.

(H) After the expiration date for filing briefs under paragraph (G) above, the Commissioner shall transmit the decision to each of the parties either personally or by mail, return receipt requested. The Commissioner's decision becomes the final administrative decision on the date it is served, unless otherwise provided in the decision.

(I) The address of the Department for delivering or mailing all requests, documents, and other correspondence mentioned within this Section is: U.S. Virgin Islands Department of Planning & Natural Resources, 45 Mars Hill, Frederiksted, St. Croix, VI 00840.

§ 1309-2. Penalties and Remedies

(a) A civil penalty not to exceed \$5,000 for each day in which a violation of any section of these Rules occurs may be imposed on any person who willfully violates them.

(b) Any person who willfully violates or fails or refuses to comply with any order issued by the Commissioner under these Rules may, in an action brought in the appropriate court to enforce such order, be fined not more than \$5,000 for each day in which such violation occurs or failure to comply continues.

Table 1

Total Coliform Monitoring Frequency For Community Water Systems	
Population served	Minimum number of samples per month
20 to 1,0001	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20
21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180

1. Includes Public Water Supplies which have at least eight (8) service connections but serve fewer than twenty (20) persons.

Total Coliform Monitoring Frequency For Community Water Systems	
Population served	Minimum number of samples per month
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

Table 2

Organism	Methodology Category	Method ¹	Citation
Total Coliforms	Lactose Fermentation Methods	Standard Total Coliform Fermentation Technique	Standard Methods 9221 B.1, B.2 (20th ed.; 21st ed.) ^{2,3} Standard Methods Online 9221 B.1, B.2–99 ^{2,3}
Total Coliforms	Lactose Fermentation Methods	Presence-Absence (P–A) Coliform Test	Standard Methods 9221 D.1, D.2 (20th ed.; 21st ed.) ^{2,7} Standard Methods Online 9221 D.1, D.2–99 ^{2,7}
Total Coliforms	Membrane Filtration Methods	Standard Total Coliform Membrane Filter Procedure	Standard Methods 9222 B, C (20th ed.; 21st ed.) ^{2,4} Standard Methods Online 9222 B–97 ^{2,4} , 9222 C–97 ^{2,4}
Total Coliforms	Membrane Filtration Methods	Membrane Filtration using MI medium m-ColiBlue24® Test ^{2,4} Chromocult ^{2,4}	EPA Method 1604 ²
Total Coliforms	Enzyme Substrate Methods	Colilert	Standard Methods 9223 B (20th ed.; 21st ed.) ^{2,5} Standard Methods Online 9223 B–97 ^{2,5}
Total Coliforms	Enzyme Substrate Methods	Colisure®	Standard Methods 9223 B (20th ed.; 21st ed.) ^{2,5,6} Standard Methods Online 9223 B–97 ^{2,5,6}
Total Coliforms	Enzyme Substrate Methods	E*Colite® Test ² Readycult® Test ² modified Colitag® Test ²	
<i>Escherichia coli</i>	<i>Escherichia coli</i> Procedure (following Lactose Fermentation Methods) <i>Escherichia coli</i> Partition Method	EC–MUG medium	Standard Methods 9221 F.1 (20th ed.; 21st ed.) ²
<i>Escherichia coli</i>	<i>Escherichia coli</i> Procedure (following Lactose Fermentation Methods) <i>Escherichia coli</i> Partition Method	EC broth with MUG (EC–MUG)	Standard Methods 9222 G.1c(2) (20th ed.; 21st ed.) ^{2,8}
<i>Escherichia coli</i>	<i>Escherichia coli</i> Procedure (following Lactose Fermentation Methods) <i>Escherichia coli</i> Partition Method	NA–MUG medium	Standard Methods 9222 G.1c(1) (20th ed.; 21st ed.) ²
<i>Escherichia coli</i>	Membrane Filtration Methods	Membrane Filtration using MI medium m-ColiBlue24® Test ^{2,4} Chromocult ^{2,4}	EPA Method 1604 ²

Organism	Methodology Category	Method ¹	Citation
<i>Escherichia coli</i>	Enzyme Substrate Methods	Colilert®	Standard Methods 9223 B (20th ed.; 21st ed.) ^{2, 5} Standard Methods Online 9223 B-97 ^{2, 5, 6}
<i>Escherichia coli</i>	Enzyme Substrate Methods	Colisure®	Standard Methods 9223 B (20th ed.; 21st ed.) ^{2, 5, 6} Standard Methods Online 9223 B-97 ^{2, 5, 6}
<i>Escherichia coli</i>	Enzyme Substrate Methods	E*Colite® Test ² Readycult® Test ² modified Colitag® Test ²	

1. The procedures must be carried out in accordance with the documents listed in 40 CFR 141.852(c). For Standard Methods, either the 20th (1998) or 21st (2005) editions may be used. For the Standard Methods Online, the year in which each method was approved by the Standard Methods Committee is designated by the last two digits following the hyphen in the method number. The methods listed are the only online versions that may be used. For vendor methods, the date of the method listed in 40 CFR 141.852(c) is the date/version of the approved method. The methods listed are the only versions that may be used for compliance with the RTCR. Laboratories should be careful to use only the approved versions of the methods, as product package inserts may not be the same as the approved versions of the methods.
2. Incorporated by reference. See 40 CFR 141.852(c).
3. Lactose broth, as commercially available, may be used in lieu of lauryl tryptose broth, if the PWS conducts at least twenty-five (25) parallel tests between lactose broth and lauryl tryptose broth using the water normally tested, and if the findings from this comparison demonstrate that the false-positive rate and false-negative rate for total coliforms, using lactose broth, is less than ten percent (10%).
4. All filtration series must begin with membrane filtration equipment that has been sterilized by autoclaving. Exposure of filtration equipment to ultraviolet (UV) light is not adequate to ensure sterilization. Subsequent to the initial autoclaving, exposure of the filtration equipment to UV light may be used to sanitize the funnels between filtrations within a filtration series. Alternatively, membrane filtration equipment that is pre-sterilized by the manufacturer (i.e., disposable funnel units) may be used.
5. Multiple-tube and multi-well enumerative formats for this method are approved for use in presence-absence determination under this regulation.
6. Colisure® results may be read after an incubation time of twenty-four (24) hours.
7. A multiple tube enumerative format, as described in *Standard Methods for the Examination of Water and Wastewater* 9221, is approved for this method for use in presence-absence determination under the RTCR.
8. The following changes must be made to the EC broth with MUG (EC-MUG) formulation: Potassium dihydrogen phosphate, KH₂PO₄, must be one and one half (1.5) grams, and 4-methylumbelliferyl-Beta-D-glucuronide must be five one-hundredths (0.05) grams.