

Department of State
Division of Publications
312 Rosa L Parks Avenue, 8th Floor Tennessee Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
[E-mail: sos.information@state.tn.us](mailto:sos.information@state.tn.us)

For Department of State Use Only
Sequence Number: 03-12-09
Rule ID(s): 4151
File Date: 03/23/2009
Effective Date: 06/6/2009

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission: Environment and Conservation
Division: Water Supply
Contact Person: Tom Moss
Address: 6th Floor L & C Tower
401 Church Street
Nashville, Tennessee
Zip: 37243-1539
Phone: (615) 532-0170
Email: Tom.moss@state.tn.us

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables.)

Chapter Number	Chapter Title
1200-05-01	Public Water Systems
Rule Number	Rule Title
1200-05-01-.14	Laboratory Certification
1200-05-01-.17	Operation and Maintenance Requirements
1200-05-01-.33	Control of Lead and Copper
1200-05-01-.35	Consumer Confidence Reports
1200-05-01-.36	Disinfectant Residuals, Disinfection Byproducts and Disinfection Byproduct Precursors

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-05-01
Public Water Systems

Amendments

Part 1 of subparagraph (d) of paragraph (10) of Rule 1200-05-01-.14 Laboratory Certification is amended by deleting the rule cite of "Rule 1200-05-01-.33(9)(a)1(iii)" and replacing it with "Rule 1200-05-01-.33(9)(a)1(iv)" such that as amended the part shall read, without amending the associated subparts:

1. Laboratories must achieve a method detection limit for lead of 0.001 mg/l according to the procedures in appendix B of part 136 of 40 CFR. This need only be accomplished if the laboratory will be processing source water composite samples under Rule 1200-05-01-.33(9)(a)1(iv).

Part 2 of subparagraph (d) of paragraph (10) of Rule 1200-05-01-.14 Laboratory Certification is amended by deleting it and replacing it with the following such that as amended the part shall read:

2. The Department has the authority to allow the use of previously collected monitoring data, provided that the laboratory is currently certified by EPA or the Department to perform analyses to the specifications required in this subparagraph and if the data were collected and analyzed in accordance with the requirements of Rule 1200-05-01-.14 and Rule 1200-05-01-.33.

Subparagraph (e) of paragraph (10) of Rule 1200-05-01-.14 Laboratory Certification and accompanying table is amended by the addition of lead and copper acceptance limits such that as amended the subparagraph shall read:

- (e) Laboratories must analyze PE samples within the following acceptance criteria:

Contaminant	Acceptance limit
Antimony	±30 at ≥0.006 mg/l
Arsenic	±30 at ≥0.003 mg/l
Asbestos	2 standard deviations based on study statistics
Barium	±15% at ≥0.15 mg/l
Beryllium	±15% at ≥0.001 mg/l
Cadmium	±20% at ≥0.002 mg/l
Chromium	±15% at ≥0.01 mg/l
Copper	±10% at ≥ 0.050 mg/l ¹
Cyanide	±25% at ≥0.1 mg/l
Fluoride	±10% at ≥1 to 10 mg/l
Lead	± 30% ≥0.005 mg/l ²
Mercury	±30% at ≥0.0005 mg/l
Nickel	±15% at ≥0.01 mg/l
Nitrate	±10% at ≥0.4 mg/l
Nitrite	±15% at ≥0.4 mg/l
Selenium	±20% at ≥0.01 mg/l
Thallium	±30% at ≥0.002 mg/l

1. The practical quantitation level (PQL) for copper is 0.050 mg/l.
2. The PQL for lead is 0.005 mg/l.

Authority: T.C.A. § 68—221—704.

Paragraph (11) of Rule 1200-05-01-.17 Operation and Maintenance Requirements is amended by deleting the word "all" at the beginning sentence of the second paragraph, replacing it with the word "community" and adding the ending sentence "Noncommunity systems which use a hypochlorinator and show deficiencies in the disinfection process shall also be required to have duplicate disinfection units" so that, as amended, Paragraph (11) shall read as follows:

- (11) All community public water systems serving more than 50 connections and which have their own source of water shall be required to install, operate and maintain duplicate disinfection equipment. Duplicate disinfection equipment means at least two chlorine cylinders connected to at least two chlorinators. Each set of chlorine cylinders consists of one or more cylinders which may be connected together by an automatic switchover valve. The two sets of chlorine cylinders may tee in to a common feed line leading to the chlorinators, but may not be connected together by an automatic switchover valve. The two sets of chlorine cylinders must be weighed independently and operated simultaneously. At least two chlorinators must be operated at all times with each feeding a part of the required dosage. The chlorinators may discharge to a common manifold piping network to allow multiple injection points. Facilities may be exempt from simultaneously operating duplicate disinfection equipment if the facility has a reliable chlorine residual analyzer with an alarm notifying a manned control center capable of immediately shutting down the treatment facility. Facilities, which are staffed during the time water is treated, can use one set of chlorine cylinders with the automatic switchover device provided the free chlorine residual is checked at the facility every two hours. A reliable free chlorine residual analyzer with an alarm system to a manned control center may be used for unmanned facilities that desire to use one set of chlorine cylinders with the automatic switchover device.

Community public water systems serving more than 50 service connections which use a hypochlorinator shall be required to have two solution pumps, two tanks for bleach solution and operate both units at the same time. Noncommunity systems and community systems serving less than 50 connections which use a hypochlorinator and show deficiencies in the disinfection process shall also be required to have duplicate disinfection units.

Authority: T.C.A. § 68—221—704.

Subparagraph (a) of paragraph (1) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the phrase "and effective dates" in the title such that as amended the title of the subparagraph shall read:

- (a) Applicability

Part 2 of subparagraph (a) of paragraph (1) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and reserving it such that as amended the part shall read:

2. Reserved

Part 3 of subparagraph (c) of paragraph (1) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by the addition of subpart (v) such that the subpart shall read:

- (v) For a public water system that has been allowed by the State to collect fewer than five samples in accordance with subparagraph (7)(c) of this Rule, the sample result with the highest concentration is considered the 90th percentile value.

Subparagraph (g) of paragraph (1) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and substituting the following in its place such that, as amended, the subparagraph shall read:

- (g) Public education requirements. Pursuant to paragraph (6) of this Rule, all water systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested. Any system exceeding the lead action level shall implement the public education requirements set forth in paragraph (6) of this Rule.

Subpart (iii) of part 3 of subparagraph (b) of paragraph (2) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and substituting the following in its place such that, as amended, the subpart

shall read:

- (iii) Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the State in writing pursuant to subparagraph (11)(a) of this Rule of any upcoming long term change in treatment or addition of a new source as described in this Rule. The State must review and approve the addition of a new source or long term change in water treatment before it is implemented by the water systems. The State may require any such system to conduct additional monitoring or to take other action the State deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

Part 1 of subparagraph (e) of paragraph (2) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by inserting the phrase "the end of the monitoring period during which" after the phrase "within six months after" in the second sentence such that, as amended, the part shall read:

- 1. Step 1: The system shall conduct initial tap sampling until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under 1200-05-01-.33(7)(d)4. A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment [1200-05-01-.33(3)(a)] within six months after the end of the monitoring period during which it exceeds one of the action levels; and

Part 2 of subparagraph (e) of paragraph (2) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by inserting the phrase "the end of the monitoring period during which" after the phrase "Within 12 months after" in the first sentence such that, as amended, the part shall read:

- 2. Step 2: Within 12 months after the end of the monitoring period during which a system exceeds the lead or copper action level, the State may require the system to perform corrosion control studies [1200-05-01-.33(3)(b)]. If the State does not require the system to perform such studies, the State shall specify optimal corrosion treatment pursuant to 1200-05-01-.33(3)(d) within the following timeframes:

Subpart (i) of part 2 of subparagraph (e) of paragraph (2) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by inserting the phrase "the end of the monitoring period during which" after the phrase "within 18 months after" such that, as amended, the subpart shall read:

- (i) for medium-size systems, within 18 months after the end of the monitoring period during which such system exceeds the lead or copper action level; and

Subpart (ii) of part 2 of subparagraph (e) of paragraph (2) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by inserting the phrase "the end of the monitoring period during which" after the phrase "within 24 months after" such that, as amended, the subpart shall read:

- (ii) for small systems, within 24 months after the end of the monitoring period during which such system exceeds the lead or copper action level.

Part 1 of subparagraph (a) of paragraph (4) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the rest of the sentence after the word "State" and replacing it with the phrase "not later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded" such that, as amended, the part shall read:

- 1. Step 1: A system exceeding the lead or copper action level shall complete lead and copper source water monitoring and make a treatment recommendation to the State not later than 180 days after the end of the monitoring period during which the lead or copper action level was exceeded.

Subparagraph (b) paragraph (4) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by adding part 7 such that the part shall read:

- 7. Treatment decisions by EPA in lieu of the State. The EPA Regional Administrator may

review treatment determinations made by a State under subparagraph (4)(b), parts 2, 4, or 6 of this Rule and issue Federal treatment determinations consistent with the requirements of those paragraphs where the Administrator finds that:

- (i) The State has failed to issue a treatment determination by the applicable deadlines contained in subparagraph (4)(a) of this Rule,
- (ii) The State has abused its discretion in a substantial number of cases or in cases affecting a substantial population, or
- (iii) The technical aspects of a State's determination would be indefensible in an expected Federal enforcement action taken against a system.

Subparagraph (b) of paragraph (5) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the last sentence and replacing it with the following sentence "The first year of lead service line replacement shall begin on the first day following the end of the monitoring period in which the action level was exceeded in subparagraph (a) of this paragraph" such that, as amended, the subparagraph shall read:

- (b) A water system shall replace annually at least 7 percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portion(s) owned by the system, based on a materials evaluation, including the evaluation required under 1200-05-01-.33(7)(a) and relevant legal authorities (e.g., contracts, local ordinances) regarding the portion owned by the system. The first year of lead service line replacement shall begin on the first day following the end of the monitoring period in which the action level was exceeded in subparagraph (a) of this paragraph.

Subparagraph (b) paragraph (5) of Rule 1200-05-01-.33 Control of Lead and Copper is further amended by the addition of parts 1 and 2 such that parts 1 and 2 shall read:

1. If monitoring is required annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs. If the State has established an alternate monitoring period, then the end of the monitoring period will be the last day of that period.
2. Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by subparagraph (f) of this paragraph shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under subparagraph (c) of this paragraph. The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year (7 percent lead service line replacement is based on a 15-year replacement program, so, for example, systems resuming lead service line replacement after previously conducting two years of replacement would divide the updated inventory by 13). For those systems that have completed a 15-year lead service line replacement program, the State will determine a schedule for replacing or retesting lines that were previously tested out under the replacement program when the system re-exceeds the action level.

Paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the introductory language and replacing it with the following such that, as amended, it shall read:

- (6) Public education and supplemental monitoring requirements.

All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at sites that are tested, as specified in subparagraph (e) of this paragraph. A water system that exceeds the lead action level based on tap water samples collected in accordance with 1200-05-01-.33(7) shall deliver to its customers the public education materials contained in subparagraph (a) of this paragraph in accordance with the requirements of subparagraph (c) of this paragraph. Water

systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with subparagraph (d) of this paragraph.

Part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the part shall read:

1. Community water systems and Non-transient non-community water systems. Water systems must include the following elements in printed materials (e.g., brochures and pamphlets) in the same order as listed below. In addition, language in subparts (i), (ii) and (vi) of this part must be included in the materials, exactly as written, except for the text in brackets in these subparts for which the water system must include system-specific information. Any additional information presented by a water system must be consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the State prior to delivery. The State may require the system to obtain approval of the content of written public materials prior to delivery.

Subpart (i) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (i) Important Information About Lead in Your Drinking Water. [Insert Name of Water System] found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

Subpart (ii) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (ii) Health effects of lead. Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

Subpart (iii) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the title and replacing it with the following such that as amended, the title of the subpart shall read:

- (iii) Sources of Lead

Item (I) of subpart (iii) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the title and replacing it with the following such that, as amended, the item shall read:

- (I) Explain what lead is.

Item (II) of subpart (iii) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the item shall read:

- (II) Explain possible sources of lead in drinking water and how lead enters drinking water. Include information on home/building plumbing materials and service lines that contain lead.

Item (III) of subpart (iii) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and

Copper is amended by deleting it and replacing it with the following such that, as amended, the item shall read:

- (III) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

Subpart (iv) of part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the subpart shall read:

- (iv) Discuss the steps the consumer can take to reduce their exposure to lead in drinking water.
 - (I) Encourage running the water to flush out the lead.
 - (II) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.
 - (III) Explain that boiling water does not reduce lead levels.
 - (IV) Discuss other options consumers can take to reduce their exposure to lead in drinking water, such as alternative sources or treatment of drinking water.
 - (V) Suggest that parents have their child's blood tested for lead. The following is a list of some State approved laboratories in your area that you can call to have your water tested for lead (Insert names and phones numbers of at least two laboratories).

Part 1 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Rule 1200-05-01-.33 Control of Lead and Copper is further amended by the addition of subparts (v) and (vi) such that, as amended, the subparts shall read:

- (v) Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area.
- (vi) For more information call us at [Insert Your Number] [(If Applicable), or visit our Web site at [Insert Your Web Site Here]]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's Web site at <http://www.epa.gov/lead> or contact your health care provider.

The introductory language of part 2 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

2. Community water systems. In addition to including the elements specified in subparagraph (a)(1) of this paragraph, community water systems must:

Subpart (i) of part 2 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (i) Tell consumers how to get their water tested.

Subpart (ii) of part 2 of subparagraph (a) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the subpart shall read:

- (ii) Discuss lead in plumbing components and the difference between low lead and lead free.

Subparagraph (b) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and reserving it such that, as amended, the subparagraph shall read:

- (b) Reserved

The title of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

- (c) Delivery of public education materials.

Part 1 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the part shall read:

1. For public water systems serving a large proportion of non-English speaking consumers, as determined by the State, the public education materials must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

The introductory language of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

2. A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with 1200-05-01-.33(7), and that is not already conducting public education tasks under this subparagraph, must conduct the public education tasks under this paragraph within 60 days after the end of the monitoring period in which the exceedance occurred:

Subpart (i) of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (i) Deliver printed materials meeting the content requirements of subparagraph (a) of this paragraph to all bill paying customers.

Subpart (ii) of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and adding the following new item (I) such that, as amended, item (I) of subpart (ii) shall read:

- (ii) Contact of customers most at risk.
 - (I) Contact customers who are most at risk by delivering education materials that meet the content requirements of subparagraph (a) of this paragraph to local public health agencies even if they are not located within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of subparagraph (a) of this paragraph to all organizations on the provided lists

Subpart (ii) of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is further amended with the addition of the following new item (II) and subitems I through VI such that, as amended, the item shall read:

- (II) Contact customers who are most at risk by delivering materials that meet the content requirements of subparagraph (a) of this paragraph to the following organizations listed in subitems I through VI that are located

within the water system's service area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users:

- I. Public and private schools or school boards.
- II. Women, Infants and Children (WIC) and Head Start programs.
- III. Public and private hospitals and medical clinics.
- IV. Pediatricians.
- V. Family planning clinics.
- VI. Local welfare agencies.

Subpart (ii) of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is further amended with the addition of the following new item (III) and subitems I through III such that, as amended, the item shall read:

- (III) Make a good faith effort to locate the following organizations within the service area and deliver materials that meet the content requirements of subparagraph (a) of this paragraph to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area:
 - I. Licensed childcare centers
 - II. Public and private preschools.
 - III. Obstetricians-Gynecologists and Midwives.

Subpart (iii) of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the subpart shall read:

- (iii) No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in brackets for which the water system must include system-specific information: [Insert Name of Water System] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call [Insert Name of Water System] [or visit (Insert Your Web Site Here)]. The message or delivery mechanism can be modified in consultation with the State; specifically, the State may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

Subpart (iv) of part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the subpart shall read:

- (iv) Post material meeting the content requirements of subparagraph (a) of this paragraph on the water system's Web site if the system serves a population greater than 100,000.

Part 2 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is further
SS-7039 (October, 2008)

amended by the addition of subparts (v), (vi) and (vii) and associated items such that the subparts shall read:

- (v) Submit a press release to newspaper, television and radio stations.
- (vi) In addition to subparts (i) through (v) of this part, systems must implement at least three activities from one or more categories listed below. The educational content and selection of these activities must be determined in consultation with the State.
 - (I) Public Service Announcements.
 - (II) Paid advertisements.
 - (III) Public Area Informational Displays.
 - (IV) E-mails to customers.
 - (V) Public Meetings.
 - (VI) Household Deliveries.
 - (VII) Targeted Individual Customer Contact.
 - (VIII) Direct material distribution to all multi-family homes and institutions.
 - (IX) Other methods approved by the State.
- (vii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the State has established an alternate monitoring period, the last day of that period.

Part 3 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the part and addition of subparts (i) through (iv) shall read:

- 3. As long as a community water system exceeds the action level, it must repeat the activities pursuant to part 2 of this subparagraph as described in subparts (i) through (iv) of this part.
 - (i) A community water system shall repeat the tasks contained in subparts 2(i), (ii) and (vi) of this subparagraph every 12 months.
 - (ii) A community water system shall repeat tasks contained in subpart 2(iii) of this subparagraph with each billing cycle.
 - (iii) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible Web site pursuant to subpart 2(iv) of this subparagraph.
 - (iv) The community water system shall repeat the task in subpart 2(v) of this subparagraph twice every 12 months on a schedule agreed upon with the State. The State can allow activities in part 2 of this subparagraph to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the State in advance of the 60-day deadline.

The introductory language of part 4 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

4. Within 60 days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks pursuant to part 5 of this subparagraph), a non-transient noncommunity water system shall deliver the public education materials specified by subparagraph (a) of this paragraph as follows:

Part 4 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is further amended by the addition of new subpart (iii) such that the subpart shall read:

- (iii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the State has established an alternate monitoring period, the last day of that period.

Part 5 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

5. A non-transient non-community water system shall repeat the tasks contained in part 4 of this subparagraph at least once during each calendar year in which the system exceeds the lead action level. The State can allow activities in part (4) of this subparagraph to extend beyond the 60-day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the State in advance of the 60-day deadline.

The introductory language of part 7 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

7. A community water system may apply to the State, in writing, (unless the State has waived the requirement for prior State approval) to use only the text specified in part (a)1 of this paragraph in lieu of the text in parts (a)1 and (a)2 of this paragraph and to perform the tasks listed in parts 4 and 5 of this subparagraph in lieu of the tasks in parts 2 and 3 of this subparagraph if:

Part 8 of subparagraph (c) of paragraph (6) of Rule 1200-05-01--.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the part shall read:

8. A community water system serving 3,300 or fewer people may limit certain aspects of their public education programs as follows:
 - (i) With respect to the requirements of subpart 2(vi) of this subparagraph, a system serving 3,300 or fewer must implement at least one of the activities listed in that subpart.
 - (ii) With respect to the requirements of subpart 2(ii) of this subparagraph, a system serving 3,300 or fewer people may limit the distribution of the public education materials required under that subparagraph to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.
 - (iii) With respect to the requirements of subpart 2(v) of this subparagraph, the State may waive this requirement for systems serving 3,300 or fewer persons as long as system distributes notices to every household served by the system.

Subparagraph (d) of paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the subparagraph shall read:

- (d) Supplemental monitoring and notification of results.

A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with 1200-05-01-.33(7) shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the

system required to collect and analyze the sample itself.

Paragraph (6) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by the addition of subparagraph (e) such that the subparagraph shall read.

- (e) Notification of results.
 - 1. Reporting requirement. All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of paragraph (7) of this Rule to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested).
 - 2. Timing of notification. A water system must provide the consumer notice as soon as practical, but no later than 30 days after the system learns of the tap monitoring results.
 - 3. Content. The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, list steps consumers can take to reduce exposure to lead in drinking water and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms from Rule 1200-05-01-.35.
 - 4. Delivery. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the State. For example, upon approval by the State, a non-transient non-community water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

The introductory language of subparagraph (c) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

- (c) Number of samples. Water systems shall collect at least one sample during each monitoring period specified in subparagraph (d) of this paragraph from the number of sites listed in the first column ("standard monitoring") of the table in this subparagraph. A system conducting reduced monitoring under part (d)4 of this paragraph shall collect at least one sample from the number of sites specified in the second column ("reduced monitoring") of the table in this paragraph during each monitoring period specified in part (d)4 of this paragraph. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A public water system that has fewer than five drinking water taps, that can be used for human consumption meeting the sample site criteria of subparagraph (a) of this paragraph to reach the required number of sample sites listed in this subparagraph, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively, the State may allow these public water systems to collect a number of samples less than the number of sites specified in this subparagraph, provided that 100 percent of all taps that can be used for human consumption are sampled. The State must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the State. States may specify sampling locations when a system is conducting reduced monitoring. The table is as follows:

Subpart (i) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and substituting the following so that, as amended, the subpart shall read as follows.

- (i) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with subparagraph (c) of this paragraph and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five samples as specified in subparagraph (c) of this paragraph, that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling

to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

Subpart (ii) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (ii) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the State under subparagraph (3)(f) of this Rule during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with subparagraph (c) of this paragraph if it receives written approval from the State. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The State shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with paragraph (11) of this Rule, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring pursuant to this paragraph. The State shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

Subpart (iii) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (iii) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the State under subparagraph (3)(f) of this Rule during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the State. Samples collected once every three years shall be collected no later than every third calendar year. The State shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with paragraph (11) of this Rule, and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The State shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

Item (I) of subpart (iv) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and substituting the following so that, as amended, the item shall read as follows:

- (I) The State may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a non-transient non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the State shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the State in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems

initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.

The introductory language of item (II) of subpart (vi) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read as follows:

- (II) Any water system subject to the reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the State under subparagraph (3)(f) of this Rule for more than nine days in any six-month period specified in subparagraph (8)(d) of this Rule shall conduct tap water sampling for lead and copper at the frequency specified in part 3 of this subparagraph, collect the number of samples specified for standard monitoring under subparagraph (c) of this paragraph, and shall resume monitoring for water quality parameters within the distribution system in accordance with subparagraph (8)(d) of this Rule. This standard tap water sampling shall begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

Subitem I of Item (II) of subpart (vi) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and substituting the following so that, as amended, it shall read as follows:

- I. The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in subparagraph (c) of this paragraph after it has completed two subsequent six-month rounds of monitoring that meet the criteria of subpart (ii) of this part and the system has received written approval from the State that it is appropriate to resume reduced monitoring on an annual frequency. This sampling shall begin during the calendar year immediately following the end of the second consecutive six month monitoring period.

Subpart (vii) of part 4 of subparagraph (d) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read:

- (vii) Any water system subject to a reduced monitoring frequency under part 4 of this subparagraph shall notify the State in writing in accordance with part (11)(a)3 of this Rule of any upcoming long term change in treatment or addition of a new source as described in that paragraph. The State must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The State may require the system to resume sampling in accordance with part 3 of this subparagraph and collect the number of samples specified for standard monitoring under subparagraph (c) of this paragraph or take other appropriate steps such as increased water quality parameter monitoring or reevaluation of its corrosion control treatment given the potentially different water quality considerations.

Subpart (i) of part 4 of subparagraph (g) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (i) A system with a full waiver must conduct tap water monitoring for lead and copper in accordance with subparagraph (d)4(iv) of this paragraph at the reduced

number of sampling sites identified in subparagraph (c) of this paragraph at least once every nine years and provide the materials certification specified in part 1 of this subparagraph for both lead and copper to the State along with the monitoring results. Samples collected every nine years shall be collected no later than every ninth calendar year.

Subpart (iii) of part 4 of subparagraph (g) of paragraph (7) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (iii) Any water system with a full or partial waiver shall notify the State in writing in accordance with part (11)(a)3 of this Rule of any upcoming long-term change in treatment or addition of a new source, as described in that paragraph. The State must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The State has the authority to require the system to add or modify waiver conditions (e.g., require recertification that the system is free of lead-containing and/or copper-containing materials, require additional round(s) of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

Subparagraph (d) of paragraph (8) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subparagraph shall read:

- (d) Monitoring after State specifies water quality parameter values for optimal corrosion control. After the State specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under paragraph (3)(f) of this Rule, all large systems shall measure the applicable water quality parameters in accordance with subparagraph (c) of this paragraph and determine compliance with the requirements of subparagraph (3)(g) of this Rule every six months with the first six-month period to begin either January 1 or July 1, whichever comes first, after the State specifies the optimal values under subparagraph (3)(f) of this Rule. Any small or medium-size system shall conduct such monitoring during each six-month period specified in this subparagraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to part (7)(d)4 of this Rule at the time of the action level exceedance, the start of the applicable six-month period under this subparagraph shall coincide with the start of the applicable monitoring period under part (7)(d)4 of this Rule. Compliance with State-designated optimal water quality parameter values shall be determined as specified under subparagraph (3)(g) of this Rule.

Subpart (i) of part 2 of subparagraph (e) of paragraph (8) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, such that as amended the subpart shall read:

- (i) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the state under subparagraph (3)(f) of this Rule during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in part 1 of this subparagraph from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the range of values for water quality parameters reflecting optimal corrosion control treatment specified by the state under subparagraph (3)(f) of this Rule during three consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in part 1 of this subparagraph from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

Subpart (ii) of part 2 of subparagraph (e) of paragraph (8) of Rule 1200-05-01-.33 Control of Lead and Copper is

amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (ii) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in part 1 of this subparagraph to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in subpart (10)(a)1(ii) of this Rule, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L for copper in part (1)(c)2 of this Rule, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under subparagraph (3)(f) of this Rule. Monitoring conducted every three years shall be done no later than every third calendar year.

Subparagraph (b) of paragraph (9) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it in its entirety and replacing it with the following such that, as amended, the subparagraph shall read:

- (b) Monitoring frequency after system exceeds tap water action level. Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the State has established an alternate monitoring period, the last day of that period.

Subpart (i) of part 1 of subparagraph (d) of paragraph (9) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (i) A water system using only groundwater shall collect samples once during the three-year compliance period in effect when the applicable State determination under part 1 of this subparagraph is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year.

Subpart (ii) of part 1 of subparagraph (d) of paragraph (9) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (ii) A water system using surface water (or a combination of surface water and ground water) shall collect samples once during each year, the first annual monitoring period to begin during the year in which the applicable State determination is made under part 1 of this subparagraph.

The introductory language of part 1 of subparagraph (e) of paragraph (9) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and substituting the following so that, as amended, it shall read:

1. A water system using only ground water may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

Part 2 of subparagraph (e) of paragraph (9) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting the term "subparagraph" and replacing it with "part" and by adding the phrase "provided that the samples are collected no later than every ninth calendar year and" after the phrase "compliance cycle" such that, as amended, the part shall read:

2. A water system using surface water (or a combination of surface water and ground water) may reduce the monitoring frequency in part (d)1 of this paragraph to once during each nine-year compliance cycle provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

The introductory language of part 1 of subparagraph (a) of paragraph (11) of Rule 1200-05-01-.33 Control of Lead

and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read as follows:

1. Except as provided in subpart (viii) of this part, a water system shall report the information specified below for all tap water samples specified in paragraph (7) of this Rule and for all water quality parameter samples specified in paragraph (8) of this Rule within the first 10 days following the end of each applicable monitoring period specified in paragraphs (7) and (8) of this Rule (i.e., every six months, annually, every 3 years, or every 9 years). For monitoring periods with a duration less than six months, the end of the monitoring period is the last date samples can be collected during that period as specified in paragraphs (7) and (8) of this Rule.

Part 3 of subparagraph (a) of paragraph (11) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the part shall read:

3. At a time specified by the State, or if no specific time is designated by the State, then as early as possible prior to the addition of a new source or any change in water treatment, a water system deemed to have optimized corrosion control under part (2)(b)3 of this Rule, a water system subject to reduced monitoring pursuant to part (7)(d)4 of this Rule, or a water system subject to a monitoring waiver pursuant to subparagraph (7)(g) of this Rule, shall submit written documentation to the State describing the change or addition. The State must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Examples of long-term treatment changes include the addition of a new treatment process or modification of an existing treatment process. Examples of modifications include switching secondary disinfectants, switching coagulants (e.g., alum to ferric chloride), and switching corrosion inhibitor products (e.g., orthophosphate to blended phosphate). Long-term changes can include dose changes to existing chemicals if the system is planning long-term changes to its finished water pH or residual inhibitor concentration. Long-term treatment changes would not include chemical dose fluctuations associated with daily raw water quality changes.

Part 1 of subparagraph (e) of paragraph (11) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the part shall read:

1. No later than 12 months after the end of the monitoring period in which a system exceeds the lead action level in sampling referred to in subparagraph (5)(a) of this Rule, the system must submit written documentation to the State of the material evaluation conducted as required in subparagraph (7)(a) of this Rule, identify the initial number of lead service lines in its distribution system at the time the system exceeds the lead action level and provide the system's schedule for annually replacing at least 7 percent of the initial number of lead service lines in its distribution system.

The introductory language of part 2 of subparagraph (e) of paragraph (11) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, it shall read as follows:

2. No later than 12 months after the end of the monitoring period in which a system exceeds the lead action level in sampling pursuant to subparagraph (5)(a) of this Rule, and every 12 months thereafter, the system shall demonstrate to the State in writing that the system has either:

Subpart (ii) of part 2 of subparagraph (e) of paragraph (11) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by deleting it and replacing it with the following such that, as amended, the subpart shall read:

- (ii) Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to part (7)(b)3 of this Rule is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and/or which meet the criteria in subparagraph (5)(c) of this Rule shall equal at least 7 percent of the initial number of lead lines identified under part 1 of this subparagraph (or the percentage specified by the State under

subparagraph (5)(e) of this Rule).

Subparagraph (f) of paragraph (11) of Rule 1200-05-01-.33 Control of Lead and Copper is amended by adding new part 3 such that the part shall read:

3. No later than 3 months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the State along with a certification that the notification has been distributed in a manner consistent with the requirements of subparagraph (6)(e) of this Rule.

Authority: T.C.A. § 68—221—704.

The introductory language of subparagraph (d) of paragraph (4) of Rule 1200-05-01-.35 Consumer Confidence Reports is amended by deleting it and replacing it with the following such that, as amended, it shall read as follows:

- (d) Every report must include the following lead-specific information:

Part 1 of subparagraph (d) of paragraph (4) of Rule 1200-05-01-.35 Consumer Confidence Reports is amended by deleting it and replacing it with the following such that, as amended, the part shall read:

1. A short informational statement about lead in drinking water and its effects on children. The statement must include the following information:

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. [Name of Utility] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using the water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>.

Part 2 of subparagraph (d) of paragraph (4) of Rule 1200-05-01-.35 Consumer Confidence Reports is amended by deleting it and replacing it with the following such that, as amended, the part shall read:

2. A system may write its own educational statement, but only in consultation with the State

Authority: T.C.A. § 68—221—704.

Rule 1200-05-01-.36 Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors is amended by adding new paragraph (10) such that the new paragraph shall read:

- (10) For purposes of determining enhanced coagulation notwithstanding the provisions of paragraph (9) of this rule the following procedure shall be in force for parent and consecutive systems:

- (a) In addition to other prescribed monitoring, all parent (water wholesalers) and consecutive systems using surface water or ground water that has experienced noncompliance with the maximum contaminant levels or exceedances of operational evaluation levels for disinfection byproducts or other systems designated by the Department shall conduct quarterly monitoring for chlorine, pH, disinfection byproducts and other water quality indicators as necessary at or near the master meter having the highest annual arithmetic mean concentration for THMs or HAA5s with all systems reporting their test results to each other. Parent and consecutive systems shall coordinate sampling activities so that samples are collected on the same date or a date prescribed by the department. This paragraph does not apply to emergency or temporary connections.

- (b) Based on Rule 1200-05-01-.38(7); upon determination of an exceedance of the maximum, contaminant level or operational evaluation level trend calculated by the method described in 1200-05-01-.38(7) in the consecutive system the following measures shall be required:
1. If the parent system TTHM or HAA5 analytical results at or near the master meter are 60% or less of the maximum contaminant limit for THMs and HAA5, no action is required by the parent system. The consecutive system(s) must submit an operational evaluation report to the state within 90 days of the end of the quarter the operational evaluation calculation is made.
 2. If the parent system and/or consecutive system TTHM or HAA5 test results are greater than 60% of the maximum contaminant limit for THMs or HAA5s at the master meter, both the parent system and consecutive system(s) are required to jointly submit the required operational evaluation report including the steps to be implemented to eliminate future exceedances and a schedule for implementation for Department approval.
- (c) The effective date of this paragraph is January 1, 2010.

Authority: T.C.A. § 68—221—704.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Elaine Boyd	X				
James Cameron III	X				
Larry Clark				X	
Jill Davis	X				
Geneil Dillehay	X				
Eddie Wayne Floyd					
C. Monty Halcomb	X				
John McClurkan	X				
Frank McGinley				X	
Dr. Robert Taylor	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Water Quality Control Board (board/commission/ other authority) on 11/18/08 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 8/20/08

Notice published in the Tennessee Administrative Register on: 9/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 10/14/08; 10/15/08; 10/16/08

Date: 11-18-08

Signature: C. Monty Halcomb

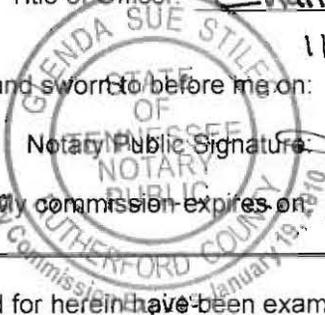
Name of Officer: C. Monty Halcomb

Title of Officer: Chair, Water Quality Control Board

Subscribed and sworn to before me on: 11/18/08
C. Monty Halcomb

Notary Public Signature: Glenda Sue Stiles

My commission expires on: 1-19-2010



All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
3-13-09
Date

Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State

Tre Hargett

Effective on:

3/23/09

6/6/07

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which shall be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: Rule 1200-05-01-.14 Laboratory Certification Needed revision/correction to coincide with the portion of the federal rule addressing lead and copper analysis.

Response: Correction has been made

Comment: Rule 1200-05-01-.17(11) Operation and Maintenance Requirements in the current rule that deals with duplicate disinfection, 1200-05-01-.17(11) states that a community public water system serving more than 50 connections and which have their own source of water shall be required to install, operate and maintain duplicate disinfection equipment. I think as the revision is currently worded small community water systems that serve less than 50 connections and non-community water systems would have to meet same requirements as the larger community systems. Could the State of Tennessee consider revising the rule to read as follows:

"Community public water systems serving more than 50 service connections which use a hypochlorinator shall be required to have two solution pumps, two tanks for bleach solution and operate both units at the same time. Non-community systems and community systems serving less than 50 connections which use a hypochlorinator and show deficiencies in the disinfection process shall also be required to have duplicate disinfection units."

Response: The Division agrees that this was not worded appropriately as it was not the intent for community systems with less than 50 connections to meet the same requirements as larger community systems. The suggested language has been added.

Comment: Rule 1200-5-1-.33 Control of Lead and Copper -- There are corrections needed (wrong cite, typographical) to the rule to coincide with the federal rule.

Response: Suggested corrections have been made.

Comment: The phrase "any change in water treatment" in Rule 1200-05-01-.33(11)(a)3 could be construed as more stringent than the federal requirement of "any long term change in water treatment."

Response: The language Rule 1200-05-01-.33(11)(a)3 has actually not been changed from the existing rule and Division chose to keep it intact as previous experience has shown this to be a problem in interpretation of "long term."

Comment: If water systems do not exceed the action levels and have the lead levels way below the action levels it is unnecessary for them to be placed in the consumer confidence reports under 1200-05-01-.35 Consumer Confidence Reports.

Response: This requirement is a federal requirement and cannot be avoided if the Division wishes to retain primacy.

Comment: Typographical error in paragraph (6) of Rule 1200-5-1-.33: Public Education and Supplemental Monitoring Requirements where it should reference subparagraph (e) rather than subparagraph (d).

Response: Correction has been made.

Comment: Three commenters concur with the changes to Rule 1200-05-01-.33 Control of Lead and Copper.

Response: The Division appreciates your support.

Comment: Three commenters were from consecutive (purchase only) systems and support Rule 1200-05-01-.36(10). One of the commenters noted that they had received a director's order and the levels of disinfection byproducts were exceeded at or near their entry point where with the new rule in place they would have been in compliance. He pointed to an aggressive flushing program, tank turnovers program and that the levels of disinfection byproducts were totally out of their control; questioning how old the water is by the time it gets to the end of our system (disinfection byproducts tend to increase with the age of the water after treatment). He went on to point out that they served rural portions of the county where people's wells were drying up and that without some relief the water system will not be able to serve rural areas such as this.

Response: The Division appreciates your support.

Comment: Three commenters (same organization) proposed the following modified paragraph:

- (10) For purposes of determining enhanced coagulation notwithstanding the provisions of paragraph (9) of this rule, the following procedure shall be in force for parent and consecutive systems:
- (a) Mandatory testing at the master meter for all connections and connected systems with all systems reporting their test results to each other.
 - (b) Based on Rule 1200-05-01-.38(7); upon determination of an exceedance trend by the consecutive system the following measures shall be required:
 - 1. If the parent system TTHM or HAA5 test results are 60% or less of the regulatory maximum limit, no action is required of the parent system.
 - 2. If the parent system TTHM or HAA5 test results are 61 to 75% of the regulatory maximum limit, both systems are required to jointly submit the required operational evaluation report.
 - 3. If the parent system TTHM or HAA5 test results are greater than 75% of the regulatory maximum limit, then implementation of corrective actions identified in the operation evaluation report along with definitive timetables for completion may be required.
 - (c) The effective date of this paragraph is January 1, 2012.

Response: The two most heard comments on this rule were that consecutive systems need to do their part and that there needed to be an implementation date for the water systems allowing for sufficient time to implement the changes. The Division is proposing a modified version of this rule very similar to that suggested by this commenter, which is based on the existing Rule 1200-05-01-.38(7) provisions for evaluation reports. The most significant difference is an earlier implementation date. With multiple consecutive systems already in violation under Stage 1 as significant noncompliers under EPA's requirements (the Division has served director's orders to 11 consecutive systems – enforcement is required by EPA), it is not in the best interest of public health to wait until 2012. Consecutive systems have limited options to protect and improve water quality. Water arriving at the consecutive system that exceeds MCLs narrows to the very expensive options of carbon filtration and re-disinfection. Flushing old/lower quality water with more of the same is not going to remedy the situation. Enhanced coagulation is a matter of removing sufficient total organic carbon (TOC) in the treatment process at the wholesaler's water plant so that it does not have an opportunity to react with chlorine to produce higher levels of disinfection byproducts. There may be situations involving extremely long transport distances and low usage that forces consecutive systems to install carbon filtration and re-disinfection on portions of their distribution system where the parent system has demonstrated it is employing enhanced coagulation and best available technologies.

With the changes in the rule from that originally proposed the effective date of January 1, 2010 is the point at which a parent system would have to start sampling at the consecutive system's master meter if the consecutive system is already having a problem. An actual implementation

schedule will be set as the evaluation report is finalized. Monitoring needs to begin before the summer of 2010 and beginning monitoring in January gives two quarters of sampling results before the expected high quarter of summer.

Note that the effective date of the rule is the point at which sampling is required to take place at the master meter, not the date to have the problem corrected. The rule requires a compliance schedule as part of the evaluation report, so there is no hard and fast implementation date set in the rule.

If it is demonstrated that the water at the master meter is above 60% of the MCL, a report will be required within 90 days of that determination and the report will contain recommended steps and a schedule for implementation.

Comment: A number of commenters were concerned that the consecutive systems needed to work in their systems to keep disinfection byproducts low and that this rule would allow them to stop doing anything and all of the work would be left to the wholesale system. Some commenters that felt the solution would be to quit providing water to consecutive systems to get around having to deal with the disinfection byproduct rule change and force consecutive systems to build their own water plants. Commenters were concerned that parent systems would be unable or unwilling to sell water to consecutive systems who service rural, end of the pipe areas unless those consecutive systems were more responsible for on-going maintenance. They also felt that this rule was in conflict with Governor Bredesen's initiative to have safe reliable water supplies for all Tennesseans. They also expressed concern that there was not a timetable to achieve compliance and that it would take some time to make changes in the system to perform corrective actions.

Response: The State has modified the proposed rule to address the issue of consecutive systems having to do their part for compliance. It has always been the intent of the Division for this to be the case. The consecutive water systems will be required to do a study regardless of whether the parent system does or not. The consecutive system will have to address in its report remedies to address water age; however, if the water is "out-of-date" when the system gets it, there is very little it can do without effort on the part of the parent system, other than re-treat the water.

The modified rule lessens the effect of the exceeding 60% of the disinfection byproduct standard at the master meter as originally proposed – it triggers a study and considerations for rectifying the situation and does not put the wholesaler in violation. If the problem lies with the consecutive system and 60% is not exceeded, the consecutive system will be the one correcting the problem. In an ideal world, the parent system and consecutive system would work the disinfection byproduct issue out voluntarily among themselves without State involvement; however, the Division has already been dealing with several situations where such is not the case and the Division will have to be involved to rectify the situation. The Division has already issued director's orders with fines to consecutive systems that need the participation of the parent system.

By law (TCA 68-221-711), water systems may only discontinue service after 60 days notice to the Department. The loss of a water supply would create an emergency and trigger the provisions of TCA 68-221-710 meaning cessation of service would require approval by the Department. The Department would not be inclined to approve discontinuance of service without an alternate source of water available for the consecutive water system. In addition, wholesalers frequently rely on the income from consecutive systems and would not be amenable to cutting off a funding source. The Division recognizes that there will have to be additional costs passed on to the consecutive system's customers. One of the options the consecutive system may have to consider is the development of their own source of water. There will likely be situations where rural consecutive water systems serve widely scattered low use areas that will have to go to additional treatment or the development of a source in certain areas.

The Governor has indicated he wants safe drinking water and access to public water for all Tennesseans; however, the expectation must be that this water meets drinking water standards. The consecutive water system should also have a reasonable expectation that the water meets drinking water quality standards as well.

In the preparation and submittal of the evaluation report (assuming the parent system has to do

anything), part of the report will include a schedule of implementation, which will have to be based on the situation at hand. This satisfies the requirements of EPA on taking action on significant noncompliers (SNCs) but still allows lead time to correct the problem.

With the changes in the rule from that originally proposed the effective date of January 1, 2010 is the point at which a parent system would have to start sampling at the consecutive system's master meter if the consecutive system is already having a problem. An actual implementation schedule will be set as the evaluation report is finalized. Monitoring needs to begin before the summer of 2010 and beginning monitoring in January gives two quarters of sampling results before the expected high quarter of summer.

EPA recognizes there are flaws in the existing federal rule. Parent and consecutive systems were required to do monitoring based on the "combined system" approach that would look at the entire system (parent and consecutives) but EPA has not as of yet taken the next inevitable step. Significant noncompliers (SNCs) are going to continue to pile up requiring enforcement action where there is very little the consecutive system can do except put in their own treatment system or develop a source. The other states are having similar problems but have not yet sought to address them. Tennessee is taking a proactive approach that will eventually be followed by other states to address the issue.

Comment: Regarding Rule 1200-05-01-.36(10), a commenter recommended that It may be beneficial to consider as the Division and the Board deliberate on this rulemaking process, that because we are interested in the development of the proposed rulemaking we have reached out to our operating companies regarding proposed rule. Our affiliated sister utilities are located in neighboring states where we have regulated water utility operations and each of the following states has provided background for any activity on this type of change by their state regulatory agencies which are PA, WV, OH, IL, KY, and NJ, and we have learned they do not have any regulations of a similar nature in place or being proposed.

Response: EPA recognizes there are flaws in the existing federal rule. Parent and consecutive systems were required to do monitoring based on the "combined system" approach that would look at the entire system (parent and consecutives) but EPA has not as of yet taken the next inevitable step. Significant noncompliers (SNCs) are going to continue to pile up requiring enforcement action where there is very little the consecutive system can do except put in their own treatment system or develop a source. The other states are having similar problems but have not yet sought to address them. Tennessee is taking a proactive approach that will eventually be followed by other states to address the issue.

Comment: Regarding Rule 1200-05-01-.36(10), a commenter believes that it is appropriate to have a scientific basis for the 48/36 µg/l THM/HAA5 levels, which is not currently scientifically based. Because it is set upon an arbitrary percentage (60%) of the current MCL, creates a very large margin which was never intended in the federal rule. This basis then causes the parent utility to ask the question, "Are these Running Annual Averages (RAA's) or instantaneous levels that must be met at any time?" The follow-up question is then "How does the Rule address emergency or seasonal interconnection usage?" Finally, another question raised by our staff is "Will the parent system be given time to come into compliance with the required levels should the consecutive system be in violation of Disinfection By-Product Maximum Contaminant Levels?"

Response: The basis for what is considered the MCL is identified in Rule 1200-05-01-.38(7). In the preparation and submittal of the evaluation report (assuming the parent system has to do anything), part of the report will include a schedule of implementation, which will have to be based on the situation at hand. This satisfies the requirements of EPA on taking action on significant noncompliers (SNCs) but still allows lead time to correct the problem.

Comment: The Rule does not address the impact of the water supply managing its own system. We would like to raise the following issues by asking the following questions "What happens if the consecutive system has its own sources, particularly a surface water supply?" "What limits are placed on their treatment operation?"

- Response: If the consecutive system also has its own water supply source that will have to be addressed in the evaluation report as well.
- Comment: Regarding Rule 1200-05-01-.36(10), a commenter asked, to the extent that legal requirements are in place in consecutive systems, how does this regulation address pre-existing contract language where interconnected utility systems may have pre-existing language regarding meeting drinking water standards at the point of connection?
- Response: The rule does not and cannot address contracts between the parent and consecutive system. A number of new rules have required additional treatment that may have affected the cost of the water a wholesaler is providing to a consecutive system. The State and EPA are not involved in water system contracts.
- Comment: Regarding Rule 1200-05-01-.36(10), a commenter pointed out that because some water systems have dual regulatory obligations related to satisfying other state agencies, how will the Tennessee Regulatory Authority (TRA) regulate rates for the master water system if treatment must be installed to provide needed levels to serve consecutive systems at the point of interconnections? Will the Rule provide that TRA recognize these costs as appropriate and allow rate relief at an acceptable rate even though the parent system is in full compliance with Disinfection By-Product Maximum Contaminant Levels?
- Response: The Division does not have the authority to direct the Tennessee Regulatory Authority to do anything regarding rates. Rates are not addressed in this rule – or anywhere else in Rule Chapter 1200-05-01, Public Water Systems.
- Comment: Regarding Rule 1200-05-01-.36(10), a commenter pointed out that historically, each water system was responsible for compliance within its plant and distribution system. What are the implications to required DBP levels at the master meter for multi-consecutive system situations? For example: Tennessee American is the wholesaler to Walden's Ridge Utility District who in turn is a wholesaler to Lone Oak Utility District who ultimately is a wholesale supplier to Suck Creek Water system. If the final wholesaler must meet the 48/36 level then the primary wholesaler would be required to meet much lower levels. What would be the enforcement view for these instances? Will the requirement under this amendment to the rule give consideration to the size (customers and pipe miles, customer density) of the consecutive system as it compares to the parent system?
- Response: The modified rule requires the consecutive system(s) to perform the evaluation report – each system in the chain where there is more than one consecutive system will have to address their own distribution system and any necessary changes that need to be made.
- Comment: Regarding Rule 1200-05-01-.36(10), a commenter asked, will the parent system or purchaser be responsible for monitoring the DBP levels at the entry point and the master meter? If both systems elect to monitor how will values be evaluated should they differ in regards to compliance with the 48/36 levels? Will the regulation allow that the parent system results can be used in compliance in the consecutive system?
- Response: Both the parent system and consecutive system will have to monitor at the master meter. The Division will take the higher of the two sample results – it would be difficult to justify to the public to take the lower of the two analyses. Note that the 60% of the MCL is merely a trigger point for the evaluation report and under Rule 1200-05-01-.38(7)(a) and it is not based on a single value: "You have exceeded the operational evaluation level at any monitoring location where the sum of the two previous quarters' TTHM results plus twice the current quarter's TTHM result, divided by 4 to determine an average, exceeds 0.080 mg/L, or where the sum of the two previous quarters' HAA5 results plus twice the current quarter's HAA5 result, divided by 4 to determine an average, exceeds 0.060 mg/L."
- Comment: Regarding Rule 1200-05-01-.36(10), a commenter stated that it is their belief and opinion that a modification (amendment) to the current rule may deter larger water systems or water suppliers who have sufficient source water supplies will be less likely to be interested in entering into agreements with troubled smaller water systems who would otherwise be required to construct

needed treatment improvements or distribution improvements to water quality or need reliable quantity, however, the burden would potentially be shifted to the parent system to provide that capability and burden the ratepayer of the parent system.

Response: This is not to say that the burden will all be on the parent system. The parent system and consecutive system will have to work in cooperation where the problem is determined to come from the parent system. The Division recognizes that increased treatment costs may have to be passed on to the customers of the consecutive system.

Comment: Regarding Rule 1200-05-01-.36(10), a commenters pointed out that a system may have a meter that runs continuous and you would have reduced problems because you have a constant flow throughout, but I think from time to time you are going to have a connection where it is a dead end scenario – where you are going to have a meter that is turned off and only used “rarely” thus comes to question the term “routinely” – it is not well defined as far as what does routinely mean. Someone may consider every month out of the year routine but then every day could be considered routinely so obviously if you have a meter that is wide open every day you are going to have less disinfection byproducts exceeding those limits than if you have a meter that would be shut off and then used just once a month.

Response: The modified rule targets the master meter with the highest arithmetic mean. Multiple wholesalers may have to do the monitoring at their master meters with the consecutive system but the focus will be on the highest arithmetic mean that supplies a major portion of the water. The evaluation report will evaluate the portions of water and disinfection byproducts being contributed by the systems involved.

Comment: Regarding Rule 1200-05-01-.36(10), a commenter believed that the level of disinfection byproducts that the state is requiring of systems at the meter is too low.

Response: The disinfection byproduct standards are federally established. Neither the State nor the public water system can elect to not meet the standard.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The foregoing amendments to Rules 1200-05-01-.14, 1200-05-01-.33 and 1200-05-01-.35 are to comply 40 CFR 141.80 – 141.91 of the federal Safe Drinking Water Act in order for the State to maintain its status as a delegated state program. These amendments relate to the Lead and Copper program required under the Safe Drinking Water Act, making this rule amendment federally mandated and exempt from the requirements of T.C.A. § 4-5-401 et seq. Amendments to Rule 1200-05-01-.17 and 1200-05-01-.36 are State initiated but are designed to address federal violations that occur regarding disinfection (Rule 1200-05-01-.17) and disinfection byproducts (Rule 1200-05-01-.36) and are triggered by those violations.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

Rule 1200-05-01-.17 Operation and Maintenance Requirements will have an effect on the small businesses regulated as public water systems. These systems would generally fall under noncommunity systems such as campgrounds, motels and industries or as mobile home parks, which would be small community systems. The amendment to the existing rule on duplicate disinfection requirements minimizes the effect on systems in that only those systems where violations are occurring are affected, whereas existing language includes all noncommunity systems.

Rule 1200-05-01-.36 Disinfectant Residuals, Disinfection Byproducts and Disinfection Byproduct Precursors amendments are not expected to substantially impact small businesses in that the disinfection byproduct violations are generally from larger systems and not small businesses that operate a water system. In this case as well, any systems impacted will be those that have violations that are occurring or are contributing to violations that are occurring, in the case of wholesale sellers of water to purchasing systems.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

The Lead and Copper Rule is a federally mandated requirement. Projected additional reporting, recordkeeping and other administrative costs to small businesses under Rule 1200-05-01-.36 are expected to be minimal. Changes under Rule 1200-05-01-.17 will only affect those systems that are not maintaining compliance for proper disinfection and costs will be associated with addressing this failure to meet and maintain those requirements.

- (3) A statement of the probable effect on impacted small businesses and consumers:

Rule 1200-05-01-.17 Operation and Maintenance Requirements will have an effect on the small businesses regulated as public water systems. These systems would generally fall under noncommunity systems such as campgrounds, motels and industries or as mobile home parks, which would be small community systems. The amendment to the existing rule on duplicate disinfection requirements minimizes the effect on systems in that only those systems where violations are occurring are affected, whereas existing language includes all noncommunity systems.

Rule 1200-05-01-.36 Disinfectant Residuals, Disinfection Byproducts and Disinfection Byproduct Precursors amendments are not expected to substantially impact small businesses in that the disinfection byproduct violations are generally from larger systems and not small businesses that operate a water system. In this case as well, any systems impacted will be those that have violations that are occurring or are contributing to violations that are occurring, in the case of wholesale sellers of water to purchasing systems.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

Water systems that are in violation of drinking water standards must meet the federally mandated requirements.

- (5) A comparison of the proposed rule with any federal or state counterparts:

Rule 1200-05-01-.17(11) duplicate disinfection requirements for noncommunity systems and very small community systems (less than 100 connections) where systems are not maintaining required disinfection. These systems would generally fall under noncommunity systems such as campgrounds, motels and industries or as mobile home parks, which would be very small community systems. The amendment to the existing rule on duplicate disinfection requirements minimizes the effect on systems in that only those systems where violations are occurring are affected, whereas existing language includes all noncommunity systems. The duplicate disinfection requirement under Tennessee regulation has been in place for community systems (except the very small systems) for over 20 years. Some other states require duplicate disinfection as well; within EPA Region IV that Tennessee is a part of, Mississippi also requires it.

Rule 1200-05-01-.33 Control of Lead and Copper emulates federal rule 40 CFR 141.80 – 141.91 of the federal Safe Drinking Water Act. Changes under Rule 1200-05-01-.14 Laboratory Certification and Rule 1200-05-01-.35 Consumer Confidence Reports were also a part of the Lead and Copper rule changes.

Rule 1200-05-01-.36(10) requiring cooperative evaluation reports with wholesalers and purchasing (consecutive) systems has no known state or federal counterpart. The original monitoring under Stage 2 of the Federal Rule for disinfection byproducts by the Environmental Protection Agency is required to be coordinated among systems connected to each other as a "combined system" which demonstrates that EPA recognized the contribution of the wholesaler and of the consecutive (purchasing) systems to disinfection byproducts and that they must be looked at holistically.

Any systems impacted under Rule 1200-05-01-.36(10) will be those that have violations that are occurring or are contributing to violations that are occurring, in the case of wholesale sellers of water to purchasing systems who are in violation of federal drinking water standards. The change with the new amendment is that if the consecutive system is not meeting drinking water standards and the parent system is providing water that is above 60% of the standards, the evaluation report and recommended actions will have to be developed concurrently by both the parent and consecutive system. Under the current rule 1200-05-01-.38(7) referenced in Rule amendment 1200-05-01-.36, the system with the violation (in this case, the consecutive system) is required to prepare the report and recommend actions to correct the problem. Consecutive systems have limited options to protect and improve water quality. Water arriving at the consecutive system that exceeds drinking water standards narrows to the very expensive options of carbon filtration and re-disinfection. Flushing old/lower quality water with more of the same is not going to remedy the situation. The Department expects other states and EPA to follow suite in some fashion given the limited alternatives for consecutive systems.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Small businesses that are regulated as public water systems must meet drinking water standards under both state and federal law and requirements under Lead and Copper are federally mandated as well. Exemptions from this are not possible.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The amendments were drafted for Rule 1200-05-01-.33 Control of Lead and Copper based on the new federal rule requirements contained in 40 CFR 141.80 – 141.91 and include changes in Rule 1200-05-01-.14 Laboratory Certification and 1200-05-01-.35 Consumer Confidence Reports that were required as a part of amending the Lead and Copper Rule. There is also a change to the requirement for duplicate disinfection under Rule 1200-05-01-.17(11) Operation and Maintenance Requirements to limit the duplicate disinfection requirement pertaining to noncommunity systems and small community systems such that only those that have demonstrated problems with maintaining disinfection must meet the requirement. There is also a change under Rule 1200-05-01-.36(10) Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors to require cooperation, evaluation reports and corrective action for wholesale systems and purchasing systems (consecutive systems) where consecutive systems are not meeting the federal drinking water standards for total trihalomethanes and haloacetic acids (disinfection byproducts).

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Chapter 1200-05-01 is the state equivalent of the Federal regulations found in Title 40, Part 141 of the Code of Federal Regulations.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These proposed regulations would affect the approximately 910 community and noncommunity water systems, and their certified operators purveying drinking water in Tennessee. The Division is unaware of the position of government entities or affected parties except as noted in the Department's response to public comments.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Tom Moss
Division of Water Supply
6th Floor L & C Tower
Nashville, Tennessee

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan M. Leiserson
Legal Services Director
Tennessee Department of Environment and Conservation

(H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor L & C Tower
Nashville, Tennessee 37243-1548
(615) 532-0131

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.