**Section 611.1356 Tap Water Monitoring for Lead and Copper**

a) Sampling Site Location

1) Selecting a Pool of Targeted Sampling Sites

A) Before the applicable date for beginning monitoring under subsection (d)(1), a supplier must complete evaluating the materials in its distribution system to identify a pool of targeted sampling sites complying with this Section.

B) The pool of targeted sampling sites must be large enough to ensure that the supplier can collect the number of lead and copper tap that the supplier can collect the number of lead and copper tap samples subsection (c) requires.

C) The supplier must select the sites for collecting first-draw tap samples from this pool of targeted sampling sites.

D) The supplier must not select as sampling sites any faucets having point-of-use or point-of-entry treatment devices designed to remove or capable of removing inorganic contaminants.

2) Materials Evaluation

A) A supplier must use the information on lead, copper, and galvanized steel it collected under 40 CFR 141.42(d) (special monitoring for corrosivity characteristics) when conducting a materials evaluation.

B) When evaluating the information collected under 40 CFR 141.42(d) is insufficient to locate the requisite number of lead and copper sampling sites under subsection (a), the supplier must review other sources of information to identify sufficient sampling sites:

i) All plumbing codes, permits, and records in building department files indicating the installed plumbing materials in publicly- and privately-owned structures connected to the distribution system;

ii) All inspections and records of the distribution system indicating the material composition of the service connections connecting a structure to the distribution system;

iii) All existing water quality information, including the results of all prior analyses of the system or individual structures connected to the system, that would indicate locations particularly susceptible to high lead or copper concentrations; and

iv) The supplier must seek to collect this information when possible in the course of its normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities).

3) Tiers of Sampling Sites. A supplier must categorize the sampling sites within its pool according to tiers:

A) CWS Tier 1 Sampling Sites. “CWS Tier 1 sampling sites” must include certain single-family structures:

i) Those containing copper pipes with lead solder installed after 1982 or containing lead pipes; or

ii) Those having a lead service line.

BOARD NOTE: This subsection (a)(3)(A) derives from segments of 40 CFR 141.86(a)(3) (2020). This allows the pool of CWS tier 1 sampling sites to consist exclusively of structures having lead service lines.

B) CWS Tier 2 Sampling Sites. “CWS Tier 2 sampling sites” must include certain buildings, including multiple-family structures:

i) Those containing copper pipes with lead solder installed after 1982 or containing lead pipes; or

ii) Those having a lead service line.

BOARD NOTE: This subsection (a)(3)(B) derives from segments of 40 CFR 141.86(a)(4) (2020). This allows the pool of CWS tier 2 sampling sites to consist exclusively of structures having lead service lines.

C) CWS Tier 3 Sampling Sites. “CWS Tier 3 sampling sites” must include certain single-family structures: those containing copper pipes with lead solder installed before 1983.

BOARD NOTE: This subsection (a)(3)(C) derives from segments of 40 CFR 141.86(a)(5) (2020).

D) NTNCWS Tier 1 Sampling Sites. “NTNCWS Tier 1 sampling sites” must include certain buildings:

i) Those containing copper pipes with lead solder installed after 1982 or containing lead pipes; or

ii) Those having a lead service line.

BOARD NOTE: This subsection (a)(3)(D) derives from segments of 40 CFR 141.86(a)(6) (2020). This allows the pool of NTNCWS tier 1 sampling sites to consist exclusively of buildings having lead service lines.

E) Alternative NTNCWS Sampling Sites. “Alternative NTNCWS sampling sites” must include certain buildings: those containing copper pipes with lead solder installed before 1983.

BOARD NOTE: This subsection (a)(3)(E) derives from segments of 40 CFR 141.86(a)(7) (2020).

4) Selection of Sampling Sites. A supplier must select sampling sites for its sampling pool using specific criteria:

A) CWS Suppliers. A CWS supplier must use CWS tier 1 sampling sites, except that the supplier may include CWS tier 2 or CWS tier 3 sampling sites in its sampling pool under certain circumstances:

i) If multiple-family residences comprise at least 20 percent of the structures the supplier serves, the supplier may use CWS tier 2 sampling sites in its sampling pool; or

BOARD NOTE: This subsection (a)(4)(A)(i) derives from a segment of 40 CFR 141.86(a)(3)(ii) (2020).

ii) If the CWS supplier does not have a sufficient number of CWS tier 1 sampling sites on its distribution system, the supplier may use CWS tier 2 sampling sites in its sampling pool; or

BOARD NOTE: This subsection (a)(4)(A)(ii) derives from a segment of 40 CFR 141.86(a)(4) (2020).

iii) If the CWS supplier does not have a sufficient number of CWS tier 1 and CWS tier 2 sampling sites on its distribution system, the supplier may complete its sampling pool with CWS tier 3 sampling sites.

BOARD NOTE: This subsection (a)(4)(A)(iii) derives from a segment of 40 CFR 141.86(a)(5) (2020).

iv) If the CWS supplier does not have a sufficient number of CWS tier 1 sampling sites, CWS tier 2 sampling sites, and CWS tier 3 sampling sites, the supplier must use those CWS tier 1 sampling sites, CWS tier 2 sampling sites, and CWS tier 3 sampling sites that it has and complete its sampling pool with representative sites throughout its distribution system for the balance of its sampling sites. For this subsection (a)(4)(A)(iv), a representative site is a site having plumbing materials commonly found at other sites the water system serves.

BOARD NOTE: This subsection (a)(4)(A)(iv) derives from segments of 40 CFR 141.86(a)(5) (2020).

B) NTNCWS Suppliers

i) An NTNCWS supplier must select NTNCWS tier 1 sampling sites for its sampling pool.

BOARD NOTE: This subsection (a)(4)(B)(i) derives from segments of 40 CFR 141.86(a)(6) (2020).

ii) If the NTNCWS supplier has an insufficient number of NTNCWS tier 1 sampling sites, the supplier may complete its sampling pool with alternative NTNCWS sampling sites.

BOARD NOTE: This subsection (a)(4)(B)(ii) derives from segments of 40 CFR 141.86(a)(7) (2020).

iii) If the NTNCWS supplier has an insufficient number of NTNCWS tier 1 sampling sites and NTNCWS alternative sampling sites, the supplier must use representative sites throughout its distribution system. For the purpose of this subsection (a)(4)(B)(ii), a representative site is a site where the plumbing materials are commonly found at other sites served by the water system serves.

BOARD NOTE: This subsection (a)(4)(B)(iii) derives from segments of 40 CFR 141.86(a)(7) (2020).

C) Suppliers with Lead Service Lines. Any supplier whose distribution system contains lead service lines must draw samples during each six-month monitoring period from specific sampling sites:

i) 50 percent of the samples from sampling sites containing lead pipes or having copper pipes with lead solder; and

ii) 50 percent of those samples from sites having a lead service line.

iii) A supplier that cannot identify a sufficient number of sampling sites having a lead service line must collect first-draw tap samples from all of the sites identified as having lead service lines.

BOARD NOTE: This subsection (a)(4)(C) derives from segments of 40 CFR 141.86(a)(8) (2020). This allows the pool of sampling sites to consist exclusively of structures or buildings having lead service lines.

b) Sample Collection Methods

1) All tap samples a supplier collects for lead and copper under this Subpart AG, with the exception of lead service line samples under Section 611.1354(d) and samples under subsection (b)(5), must be first-draw tap samples.

2) First-Draw Tap Samples

A) Every first-draw tap sample for lead and copper must be one liter in volume and have stood motionless in the plumbing system of the sampling site for at least six hours.

B) For residential buildings, the supplier must collect first-draw tap samples from residential housing from the cold-water kitchen or bathroom sink tap.

C) For non-residential buildings, the supplier must collect first-draw tap samples one-liter in volume from an interior tap occupants typically use for consuming water.

D) The supplier must collect non-first-draw tap samples that it collects in lieu of first-draw tap samples under subsection (b)(5) one liter in volume from an interior tap occupants typically use for consuming water.

E) The supplier may collect first-draw tap samples or allow residents to collect first-draw tap samples after instructing the residents in the sampling procedures this subsection (b) specifies.

i) To avoid problems of residents handling nitric acid, the supplier may acidify first-draw tap samples up to 14 days after the supplier or a resident collects the sample.

ii) After adding acid to resolubilize the metals, a sample must stand in its original container for the time the USEPA-approved method specifies before the laboratory analyzes the sample.

F) If a supplier allows residents to perform sampling under subsection (b)(2)(D), the supplier may not challenge the accuracy of sampling results based on alleged errors in sample collection.

3) Service Line Samples

A) Each service line sample must be one liter in volume and have stood motionless in the lead service line for at least six hours.

B) Lead service line samples must be collected in one of three ways:

i) At the tap after flushing the calculated volume of water between the tap and the lead service line (based on the interior diameter and length of the pipe between the tap and the lead service line);

ii) Tapping directly into the lead service line; or

iii) If the sampling site is a single-family structure, allowing the water to run until there is a significant change in temperature indicating water that stood in the lead service line.

4) Follow-Up First-Draw Tap Samples

A) A supplier must collect each follow-up first-draw tap sample from the same sampling site where the previous samples originated.

B) If, for any reason, the supplier cannot access a sampling site to collect a follow-up tap sample, the supplier may collect the follow-up tap sample from another sampling site in its sampling pool, as long as the new site meets the same targeting criteria and is within reasonable proximity of the original site.

5) Substitute Non-First-Draw Tap Samples

A) A NTNCWS supplier or a CWS supplier meeting the criteria in Sections 611.1355(b)(7)(A) and (b)(7)(B) not having enough taps for first-draw tap samples, as Section 611.102 defines the term, may apply to the Agency in writing for a SEP allowing the supplier to substitute non-first-draw tap samples.

B) A supplier approved to substitute non-first-draw tap samples must collect as many first-draw tap samples from appropriate taps as possible and identify sampling times and locations that likely give the longest standing time for the remaining sites.

C) The Agency may grant a SEP waiving the requirement for prior Agency approval of a supplier’s chosen non-first-draw sampling sites.

c) Number of Samples

1) A supplier must collect at least one sample each from the number of sites in the first column of Table D (labelled “standard monitoring”) during each six-month monitoring period subsection (d) specifies.

2) A supplier conducting reduced monitoring under subsection (d)(4) must collect one sample each from the number of sites in the second column of Table D (labelled “reduced monitoring”) during each reduced monitoring period subsection (d)(4) specifies. The reduced monitoring sites must represent the sites standard monitoring requires. A supplier whose system has fewer than five drinking water taps capable of use for human consumption that meet the sampling site criteria of subsection (a) must collect multiple samples from individual taps to reach the required number of sampling sites Table D requires. To accomplish this, the supplier must collect at least one sample from each tap, then additional samples from those taps on different days during the monitoring period, to collect a total number of samples meeting the required number of sampling sites. Alternatively, the Agency may issue a SEP allowing the supplier whose system has fewer than five drinking water taps to collect a number of samples that is fewer than the number of sites this subsection (c) specifies if the Agency determines that the supplier samples 100 percent of all taps capable of use for human consumption and that the reduced number of samples will produce the same results as collecting multiple samples from some taps. The Agency must base any approval of reducing the minimum number of samples on a request from the supplier or Agency on on-site verification. The Agency may specify sampling locations in a SEP when a system conducts reduced monitoring.

d) Timing of Monitoring

1) Six-Month Sampling Periods. Six-month sampling periods begin on January 1 and July 1 of each year.

A) A large system must monitor during each consecutive six-month period, except as subsection (d)(4)(B) provides otherwise.

B) A small or medium-sized system must monitor during each consecutive six-month monitoring period until either of two occurrences:

i) The supplier exceeds the lead or copper action level and must, therefore, implement the corrosion control treatment requirements under Section 611.1351 and continue monitoring under subsection (d)(2); or

ii) The supplier meets the lead and copper action levels during each of two consecutive six-month monitoring periods, which allows the supplier to reduce monitoring under subsection (d)(4).

2) Monitoring after Installation of Corrosion Control and Source Water Treatment

A) Any large system supplier installing optimal corrosion control treatment under Section 611.1351(d)(4) must monitor during two consecutive six-month monitoring periods.

B) Any small or medium-sized system supplier installing optimal corrosion control treatment under Section 611.1351(e)(5) must monitor during two consecutive six-month monitoring periods within 36 months after the Agency approves optimal corrosion control treatment, as Section 611.1351(e)(6) specifies.

C) Any supplier installing source water treatment under Section 611.1353(a)(3) must monitor during two consecutive six-month monitoring periods within 36 months after completing step 2, as Section 611.1353(a)(4) specifies.

3) Monitoring after the Agency Specifies Water Quality Parameter Values for Optimal Corrosion Control. After the Agency specifies the values for water quality control parameters under Section 611.1352(f), the supplier must monitor during each subsequent six-month monitoring period, with the first six-month monitoring period beginning on the date the Agency specifies the optimal values.

4) Reduced Monitoring

A) Reducing to Annual Monitoring for Small and Medium-Sized System Suppliers Meeting the Lead and Copper Action Levels. A small or medium-sized system supplier meeting the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples under subsection (c) and sampling frequency to once per year. A small or medium-sized system supplier collecting fewer than five samples as subsection (c) specifies and meeting the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce its frequency of sampling to once per year. In no instance may the supplier reduce the number of samples below the minimum of one sample per available tap. The supplier may begin this reduced sampling only during the calendar year immediately following the end of the second consecutive six-month monitoring period.

B) SEP Allowing Reduction to Annual Monitoring for Suppliers Maintaining Water Quality Control Parameters

i) The Agency may issue a SEP allowing a supplier meeting the lead action level and maintaining the range of values for water quality control parameters reflecting optimal corrosion control treatment that the Agency specifies under Section 611.1352(f) during each of two consecutive six-month monitoring periods to reduce its monitoring frequency to once per year and its number of lead and copper samples to that subsection (c) specifies. This reduced sampling may only begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

ii) The Agency must review monitoring, treatment, and other relevant information the supplier submits under Section 611.1360, and the Agency must issue a SEP upon determining that the supplier is eligible to reduce its monitoring frequency to once every three years under this subsection (d)(4).

iii) The Agency must review its determination under subsection (d)(4)(B)(i) when the supplier submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available to the Agency. The Agency must revise its determination if the Agency deems this appropriate based on its review.

C) Reduction to Triennial for Small and Medium-Sized System Suppliers

i) Small‑ and Medium-Sized Water System Suppliers Meeting Lead and Copper Action Levels. A small or medium-sized system supplier meeting 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.

ii) SEP for Suppliers Meeting Optimal Corrosion Control Treatment. The Agency may issue a SEP allowing any supplier meeting the range of values for the water quality control parameters reflecting optimal corrosion control treatment the Agency specifies under Section 611.1352(f) during three consecutive years of monitoring may reduce its monitoring frequency from annual to once every three years. A supplier collecting samples once every three years must collect the samples no later than every third calendar year.

iii) The Agency must review its determination under subsection (d)(4)(C)(ii) when the supplier submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available to the Agency. The Agency must revise its determination if the Agency deems this appropriate based on its review.

D) Sampling at a Reduced Frequency. A supplier reducing the number and frequency of sampling must collect these samples from the pool of targeted sampling sites the supplier selected under subsection (a), preferentially using those sampling sites from the highest tier first. A supplier sampling annually or less frequently must conduct lead and copper tap sampling during June, July, August, or September, unless the Agency approves a different sampling period under subsection (d)(4)(D)(i).

i) The Agency may grant a SEP approving a different period for a supplier to conduct lead and copper tap sampling to a system collecting a reduced number of samples. The duration of the period must not exceed four consecutive months and must represent a time of normal operation when the highest lead levels are most likely to occur. For a NTNCWS supplier not operating during any of June through September and whose normal operating period when the highest levels of lead are most likely to occur is not known, the Agency must designate a period that represents a time of normal operation for the system. This reduced sampling may only begin during the Agency-designated period in the calendar year immediately following the end of the second consecutive six-month monitoring period, for a system initiating annual monitoring, or in the three-year period following the end of the third consecutive calendar year of annual monitoring, for a supplier initiating triennial monitoring.

ii) A supplier monitoring annually and collecting samples during the months of June through September that receives Agency approval to alter its sampling period under subsection (d)(4)(D)(i) must collect its next round of samples during a time period ending no later than 21 months after its previous round of sampling. A supplier monitoring once every three years and collecting samples during the months of June through September that receives Agency approval to alter the sampling collection period under subsection (d)(4)(D)(i) must collect its next round of samples during a time period ending no later than 45 months after the previous round of sampling. The supplier must collect subsequent rounds of sampling annually or once every three years, as this Section requires. A small system supplier collecting samples during the months of June through September, receiving a waiver under subsection (g) and receiving Agency approval to alter its sample collection period under subsection (d)(4)(D)(i) must collect its next round of samples before the end of the nine-year compliance cycle (as Section 611.101 defines the term).

E) Any water system demonstrating for two consecutive six-month monitoring periods that the tap water lead level computed under Section 611.1350(c)(3) is less than or equal to 0.005 mg/L and that the tap water copper level computed under Section 611.1350(c)(3) is less than or equal to 0.65 mg/L may reduce its number of samples under subsection (c) and reduce its sampling frequency to once every three calendar years.

F) Resumption of Standard Monitoring

i) Small or Medium-Sized Suppliers Exceeding the Lead or Copper Action Level. A small or medium-sized system supplier subject to reduced monitoring exceeding the lead or copper action level must resume sampling under subsection (d)(3) and collect the number of samples that subsection (c) specifies for standard monitoring. The small or medium-sized system supplier exceeding the lead or copper action level must also conduct water quality parameter monitoring under Section 611.1357 (b), (c), or (d) (as appropriate) during the six-month monitoring period during which the supplier exceeded the action level. The small or medium-sized system supplier may resume annual tap monitoring for lead and copper at the reduced number of sites subsection (c) specifies after the supplier completes two subsequent consecutive six-month rounds of monitoring complying with subsection (d)(4)(A). The small or medium-sized system supplier may resume monitoring once every three years for lead and copper at the reduced number of sites after demonstrating through subsequent rounds of monitoring that comply with subsection (d)(4)(C) or (d)(4)(E).

ii) Suppliers Failing to Operate within Water Quality Control Parameters. Any supplier subject to reduced monitoring frequency failing to meet the lead action level during any four-month monitoring period or failing to operate within the range of values for the water quality control parameters Section 611.1352(f) specifies for more than nine days in any six-month period Section 611.1357(d) specifies must conduct tap water sampling for lead and copper at the frequency subsection (d)(3) specifies, must collect the number of samples subsection (c) specifies for standard monitoring, and must resume monitoring for water quality parameters within the distribution system under Section 611.1357(d). This standard tap water sampling must begin no later than the six-month period beginning January 1 of the calendar year after the supplier exceeds the lead action level or deviates from a water quality parameter. A supplier may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system only if the supplier fulfills the conditions in subsection (d)(4)(H).

BOARD NOTE: The Board moved the last sentence of 40 CFR 141.86(d)(4)(vi)(B) and 40 CFR 141.86(d)(4)(vi)(B)(*1*) through (d)(4)(vi)(B)(*3*) (2020) to subsections (d)(4)(H) and (d)(4)(H)(i) through (d)(4)(H)(iii) to comport with allowed indent levels.

G) Any supplier subject to reduced monitoring under subsection (d)(4) must notify the Agency in writing under Section 611.1360(a)(3) of any upcoming long-term change in treatment or adding a new source as that Section describes. The Agency must review and approve the addition of a new source or long-term change in water treatment before the supplier may implement it. The Agency may issue a SEP requiring the system to resume sampling under subsection (d)(3) and collecting the number of samples for standard monitoring under subsection (c) or take other appropriate steps, such as increased water quality parameter monitoring or re-evaluating its corrosion control treatment, considering the potentially different water quality considerations.

H) A supplier that subsection (d)(4)(F) requires to resume monitoring under Section 611.1357(d) may resume reduced monitoring for lead and copper at the tap and water quality parameters within the distribution system under the specific conditions:

i) The supplier may resume annual monitoring for lead and copper at the tap at the reduced number of sites subsection (c) specifies after the supplier completes two subsequent six-month rounds of monitoring complying with subsection (d)(4)(B) and the supplier receives written approval from the Agency in a SEP appropriate to resuming reduced monitoring on an annual frequency. The supplier must begin this sampling during the calendar year immediately following the end of the second consecutive six-month monitoring period.

ii) The supplier may resume tap monitoring for lead and copper once every three years at the reduced number of sites after demonstrating through subsequent rounds of monitoring that the supplier complies with either subsection (d)(4)(C) or (d)(4)(E) and the Agency issues a SEP allowing the supplier to resume monitoring once every three years.

iii) The supplier may reduce the number of water quality parameter tap water samples it collects under Section 611.1357(e)(1) and its sampling frequency under Section 611.1357(e)(2). The supplier may not resume triennial tap water monitoring for water quality parameters until after the supplier demonstrates requalifying for triennial monitoring under Section 611.1357(e)(2).

BOARD NOTE: Subsections (d)(4)(H) and (d)(4)(H)(i) through (d)(4)(H)(iii) derive from the last sentence of 40 CFR 141.86(d)(4)(vi)(B) and (d)(4)(vi)(B)(*1*) through (d)(4)(vi)(B)(*3*) (2020), moved here to comport with allowed indent levels.

e) Additional Monitoring. The supplier and the Agency must consider the results of any monitoring the supplier conducts in addition to the minimum requirements in this Section in making any determinations (i.e., calculating the 90th percentile lead action level or the copper level) under this Subpart G.

f) Invalidation of Lead or Copper Tap Water Samples. A sample the Agency invalidates under this subsection (f) does not count toward determining lead or copper 90th percentile levels under Section 611.1350(c)(3) or toward complying with subsection (c).

1) The Agency must invalidate a lead or copper tap water sample if it determines that any of certain conditions exists:

A) The laboratory establishes that improper sample analysis caused erroneous results;

B) The supplier took the sample from a site that did not meet the site selection criteria in this Section;

C) The sample container sustained damage in transit; or

D) There is substantial reason to believe that someone tampered with the sample.

2) The supplier must report the results from all samples to the Agency and submit all supporting documentation for samples the supplier believes the Agency should invalidate.

3) To invalidate a sample under subsection (f)(1), the Agency must document its decision and rationale for the decision in writing. The Agency may not invalidate a sample solely because a follow-up sample result is higher or lower than that of the original sample.

4) The supplier must collect replacement samples for any samples the Agency invalidates under this Section if the supplier has too few samples to meet the minimum requirements of subsection (c) after the Agency invalidates samples. The supplier must take any replacement samples as soon as possible but no later than the latter of 20 days after the Agency invalidates the original sample or before the end of the applicable monitoring period. The supplier must not use replacement samples it takes after the end of the applicable monitoring period to meet the monitoring requirements of a subsequent monitoring period. The supplier must take replacement samples at the same locations where it took the invalidated samples or, if that is not possible, at other locations the supplier did not use for sampling during the monitoring period.

g) Monitoring Waivers for Small System Suppliers. Any small system supplier complying with the criteria in this subsection (g) may apply to the Agency for a SEP reducing its lead and copper monitoring frequency under this Section to once every nine years (i.e., a “full waiver”) if the supplier meets all of the materials criteria subsection (g)(1) specifies and all of the monitoring criteria subsection (g)(2) specifies. Any small system supplier that meets the criteria subsections (g)(1) and (g)(2) only for lead or copper may apply to the Agency for a SEP reducing its tap water monitoring frequency to once every nine years for that contaminant only (i.e., a “partial waiver”).

1) Materials Criteria. The supplier must demonstrate that its distribution system, service lines, and all drinking water supply plumbing, including plumbing conveying drinking water within all residences and buildings connected to the system, are free of lead-containing materials or copper-containing materials, as this subsection (g)(1) defines these terms:

A) Lead. To qualify for a SEP granting a full waiver or a partial waiver of the tap water monitoring requirements for lead (i.e., a “lead waiver”), the supplier must provide certification and supporting documentation to the Agency demonstrating that its system is free of all lead-containing materials:

i) The system has no plastic pipes or service lines containing lead plasticizers; and

ii) The system is free of lead service lines, lead pipes, lead soldered pipe joints, and leaded brass- or bronze-alloy fittings and fixtures, unless those fittings and fixtures comply with Section 611.126(b).

BOARD NOTE: Corresponding 40 CFR 141.86(g)(1)(i)(B) (2020) specifies "any standard established pursuant to 42 U.S.C. 300g-6(e) (SDWA section 1417(e))". Congress changed the lead standards for fittings and fixtures in the Reduction of Lead in Drinking Water Act, P.L. 111-380, section 2(a)(2) and (b), 124 Stat. 4131 (Jan. 4, 2011). The Board incorporated the statutory changes into this Section by referencing Section 611.126(b).

B) Copper. To qualify for a SEP granting a full waiver or a partial waiver of the tap water monitoring requirements for copper (i.e., a "copper waiver"), the supplier must provide certification and supporting documentation to the Agency demonstrating that its system contains no copper pipes or copper service lines.

2) Monitoring Criteria for Waiver Issuance. The supplier must have completed at least one six-month round of standard tap water monitoring for lead and copper at Agency-approved sites and from the number of sites subsection (c) requires and demonstrate to the Agency that the 90th percentile levels for any and all rounds of monitoring conducted since the system became free of all lead-containing or copper-containing materials, as appropriate, meet certain criteria:

A) Lead Levels. To qualify for a full waiver or a lead partial waiver, the supplier must demonstrate that its 90th percentile lead level does not exceed 0.005 mg/L.

B) Copper Levels. To qualify for a full waiver or a copper partial waiver, the supplier must demonstrate that its 90th percentile copper level does not exceed 0.65 mg/L.

3) Agency Approval of Waiver Application. The Agency must notify the supplier of its waiver determination in a SEP stating the basis of its decision and any condition on the waiver. As a condition on the waiver, the Agency may require the supplier to perform specific activities (e.g., limited monitoring, periodic outreach to customers to remind them to avoid installation of materials that might void the waiver, etc.) to avoid the risk of lead or copper concentration of concern in tap water. The small system supplier must continue monitoring for lead and copper at the tap as subsections (d)(1) through (d)(4) require, as appropriate, until the supplier receives written notification from the Agency approving the waiver.

4) Monitoring Frequency for Suppliers with Waivers

A) A supplier with a full waiver must conduct tap water monitoring for lead and copper under subsection (d)(4)(D) at the reduced number of sampling sites subsection (c) identifies at least once every nine years and provide to the Agency the materials certification subsection (g)(1) specifies for both lead and copper together with the monitoring results. The supplier must collect samples every nine years no later than the ninth calendar year.

B) A supplier with a partial waiver must conduct tap water monitoring for the waived contaminant under subsection (d)(4)(D) at the reduced number of sampling sites subsection (c) specifies at least once every nine years and provide to the Agency the materials certification subsection (g)(1) specifies pertaining to the waived contaminant together with the monitoring results. Such a supplier also must continue to monitor for the non-waived contaminant in under the applicable of subsections (d)(1) through (d)(4).

C) A supplier with a full or partial waiver must notify the Agency in writing under Section 611.1360(a)(3) of any upcoming long-term change in treatment or adding a new source, as that rule describes. The Agency must review and approve adding a new source or long-term change in water treatment before the supplier implements it. The Agency may add or modify waiver conditions (e.g., require recertification that the supplier’s system is free of lead-containing or copper-containing materials, require additional rounds of monitoring, etc.) if the Agency determines that the modifications are necessary to address system treatment or source water changes.

D) If a supplier with a full or partial waiver becomes aware that its system is no longer free of lead- or copper-containing materials, as appropriate (e.g., as a result of new construction or repairs), the supplier must notify the Agency in writing no later than 60 days after becoming aware of the change.

5) Continued Eligibility. If the supplier continues to comply with subsection (g)(4), the waiver will renew automatically, unless any of the conditions in subsections (g)(5)(A) through (g)(5)(C) occur. A supplier whose waiver the Agency revokes may re-apply for a waiver when the supplier again meets the appropriate materials and monitoring criteria of subsections (g)(1) and (g)(2).

A) A full waiver or a lead partial waiver does not renew if the supplier no longer satisfies the materials criteria of subsection (g)(1)(A) or has a 90th percentile lead level greater than 0.005 mg/L.

B) A full waiver or a copper partial waiver does not renew if the supplier no longer satisfies the materials criteria of subsection (g)(1)(B) or has a 90th percentile copper level greater than 0.65 mg/L.

C) A waiver terminates when the Agency notifies the supplier that the Agency revokes the waiver, in writing and describing the basis of its decision.

6) Requirements Following Waiver Revocation. A supplier whose full or partial waiver the Agency revokes must comply with specific corrosion control treatment and lead and copper tap water monitoring requirements:

A) If the supplier exceeds the lead or copper action level, the supplier must implement corrosion control treatment within the deadlines Section 611.1351(e) specifies and any other applicable requirements under this Subpart AG.

B) If the supplier meets both the lead and the copper action levels, the supplier must monitor for lead and copper at the tap no less frequently than once every three years using the reduced number of sampling sites subsection (c) specifies.

7) Pre-Existing Waivers. A small system supplier waiver the Agency granted in writing prior to April 11, 2000 remains in effect under certain conditions:

A) If the supplier demonstrates that its system is free of both lead-containing and copper-containing materials, as subsection (g)(1) requires, and that its 90th percentile lead levels and 90th percentile copper levels comply with subsection (g)(2), the waiver remains in effect so long as the supplier continues to be eligible for a waiver under subsection (g)(5). The supplier must complete its first round of tap water monitoring under subsection (g)(4) no later than nine years after the supplier last monitored for lead and copper at the tap.

B) If the supplier complies with the materials criteria of subsection (g)(1) but has not complied with the monitoring criteria of subsection (g)(2), the supplier must conduct a round of monitoring for lead and copper at the tap demonstrating that it complied with subsection (g)(2). Thereafter, the waiver remains in effect as long as the supplier complies with the continued eligibility criteria in subsection (g)(5). The supplier must complete its first round of tap water monitoring under subsection (g)(4) no later than nine years after the supplier conducts the monitoring under subsection (g)(2).

BOARD NOTE: This Section corresponds with Section 611.1356 and derives from 40 CFR 141.86 (2020).

(Source: Added at 47 Ill. Reg. 16486, effective November 2, 2023)