Response to Comment – Drinking Water Program revisions to regulations at 310 CMR 22.00 February 29, 2016	
Draft Drinking Water Regulations Comment ***Note to readers: The redline/strikeout edits that appear in this "Comment" column reflect specific text changes requested by commenters.***	**Response**
MassDEP received 27 written comments and oral testimony at two public hearings. Thank you to all who provided input on these regulations.	
22.02 Definitions	
1. Chemical Feed System: MWWA suggests that MassDEP replace the word "pure" with potable, as some might consider any chemical addition taking away from the purity of water.	The term "pure" comes from M.G.L Chapter 111, § 160. MassDEP will not substitute "potable". We have used the language from our statutory authority, and believe that is appropriate.
2. Clean Compliance History: Would it be appropriate to include in the definition that it is a 12-month look back?	The definition of "Clean Compliance History" is from the federal rule, and is a federal requirement. A look back periodis not part of the federal definition.
3. Contract Operator Compliance Notice: MWWA suggests eliminating the detail of what the responsibilities are and stop at "…form to be provided by the Department."	The regulation, needs to include a degree of specificity about the required content of the notice to inform the regulated community of what is required and to provide a basis for enforcement. Legally required elements need to be in the regulations, and MassDEP has specified them here.
4. Level 1 Assessment and Level 2 Assessment: These definitions seem rather long although we understand they mimic the language in the Federal Register. Can the definitions be shortened because in later sections of the regulations it explicitly states what must be looked at during each assessment?	These definitions are federal requirements of the Revised Total Coliform Rule. The rule follows the federal model, and explanatory guidance and training will be provided.
5. Substantial Modification: By definition it includes nearly any change to a water system. We appreciate MassDEP has a policy that further defines what is considered substantial. Could that policy be referred to in the regulations?	This requested change is to add a reference to guidance for a term used in this section that is outside of the scope of proposed changes for which MassDEP sought public comment. MassDEP made no changes other than minor typographical edits to this section, so no changes can be made without additional public input.
6. Zone I: MWWA suggests that New Hampshire's definition may be better and we request that MassDEP review it and consider it instead. (the full text can be	MassDEP reviewed NH's definition of its Zone I area and has decided not to adopt that state's approach. The Massachusetts source

found at: http://des.nh.gov/organization/commissioner/legal/rules/documents/env-dw302.pdf	protection program has been built on this foundational concept and definition, and any changes would require substantial analysis.
7. Dissolved Air Floatation also needs to be defined.	This requested change would create a new definition that was not proposed with the changes for which MassDEP sought public comment. This suggestion will be considered in a subsequent round of proposed regulation changes.
8. At the next revision MassDEP might consider whether they need to define redundant well in 310 CMR 22.00 as they have in 310 CMR 36.00	This suggestion will be considered in a subsequent round of proposed regulation changes.
9. Direct Responsible Charge means accountability for and performance of active, daily on-site operation of the ~~facility~~ Treatment Facility or Distribution S~~s~~ystem, or a major segment of the Treatment ~~f~~Facility or Distribution S~~s~~ystem where shift operation is not required. Where shift operation is required "Direct Responsible Charge" shall mean accountability for and performance of active, daily on-site operation of an operating shift, or a major segment of the operation of the Treatment ~~f~~Facility or Distribution S~~s~~ystem.	MassDEP concurs with these suggested changes, which are included in the final rules.
10. Primary Operator means any individual who is certified by the Board of Certification of Drinking Water Supply Facilities and has a grade certificate at least equal to the class of the ~~corresponding facility~~Treatment Facility or Distribution System at which he or she is employed. The Primary Operator shall be the individual who has direct supervision and responsibility for charge of the operation of a ~~facility~~ Treatment Facility and/or Distribution Systems who has active field supervision of the respective operation or who is required in the performance of their normal duties to give responsible, technical advice and supervision of the technical aspects rather than only general administrative supervision of the ~~treatment~~ Treatment Facility and/or ~~d~~Distribution System ~~of the water supply~~ and spends their working hours within the Public Water System at the ~~treatment facility or performing distribution system duties~~ and is knowledgeable of the Massachusetts Drinking Water Regulations, guidelines and policies. The Primary Operator of the facility shall hold a "Full Operator" status and cannot hold an "Operator-in-Training" certificate as defined in 236 CMR 4.05.	Changes requested are to a definition that is outside of the scope of review for this round of proposed edits. MassDEP made no changes other than minor clarifications. This recommendation will be considered in subsequent round of proposed regulation changes.
11. Satellite Facility means a ~~treatment~~ Treatment F~~f~~acility which is ~~operated and~~	MassDEP concurs with all of the suggested changes except for the

controlled and monitored by an appropriately certified operator ~~from another staffed facility that is part of the~~working within the same Public Water System.	deletion of "operated". The Certified Operator is responsible and in direct charge of ***operating*** a public water system.
12. Secondary Operator means any individual who is certified by the Board of Certification of Operators of Drinking Water Supply Facilities and has an operator's license not less than one grade lower than the classification of the Treatment fFacility or Distribution System at which they are employed. For Class III ~~treatment~~ Treatment ~~facilities~~ Facilities or higher, the Secondary Operator must also have at least six months working experience in a Class II ~~treatment facility~~Treatment Facility or higher. ~~**A Secondary Operator shall be an individual who spends their working hours at the treatment facility as the shift supervisor or performs distribution system duties as a foreman or assistant superintendent and is knowledgeable of 310 CMR 22.00: Drinking Water, guidelines and policies.**~~ A Secondary Operator shall be in Direct Responsible Charge during periods of time when the Primary Operator is temporarily absent or is not scheduled for duty. The Secondary Operator may hold an Operator-in-Training certificate as defined in 236 CMR 1.00 through 5.00.	Changes requested are to a definition that is outside of the scope of review for this round of proposed edits. MassDEP made no changes other than minor typographical edits. This recommendation will be considered in subsequent round of proposed regulation changes.
13. Treatment Facility means a Public Water System location where the addition of any chemical or use of any treatment process to alter the physical, biological or chemical quality of source water, including treatment consisting only of Disinfection, is used for the production of drinking water for public consumption.	MassDEP has introduced a new definition for Treatment Facility.
14. the definition for SMCL should be changed to and follow the EPAs definition see EPA; http://water.epa.gov/drink/contaminants/secondarystandards.cfm or http://water.epa.gov/drink/contaminants/secondarystandards.cfm or http://water.epa.gov/drink/contaminants/upload/mcl-2.pdf from other commenter: Page 11- Secondary Maximum Contaminant Level (SMCL): The definition here is substantially different than EPA's definition, and confuses enforceable primary standards with aesthetic standards, with language such as "maximum permissible level". See EPA's version - water.epa.gov/drink/contaminants/secondarystandards.cfm "They are established only as guidelines to assist public water systems in managing their drinking water for aesthetic considerations, such as taste, color and odor. These	The proposed revisions to this definition in the public comment draft are consistent with the federal definition, reproduced below. Federal Definition found at 40 CFR 143.2(f): *Secondary maximum contaminant levels means SMCLs which apply to public water systems and which, in the judgement of the Administrator, are requisite to protect the public welfare. The SMCL means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of public water system. Contamimants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.*

contaminants are not considered to present a risk to human health at the SMCL." The suggested definition in the proposed regulation changes is inappropriate. MWRA recommends that MassDEP follow the federal definition more closely.	
15. The definition of "an emergency" should be clearly defined.	No change was made. MassDEP believes that the defnition is sufficient. More information on emergencies is included in the Masachusetts Guidelines and Policies for Public Water Systems, Appendix O, Handbook for Water Supply Emergencies.
16. The definition of "response" or "response time" should be clearly defined.	No change was made. More information on emergencies is included in the Masachusetts Guidelines and Policies for Public Water Systems, Appendix O, Handbook for Water Supply Emergencies.
17. Secondary Maximum Contaminant Level – definition is incorrect in that they are not health standards. Stating that treatment of SMCL's may be required by the department in order to "to protect public health" is impossible as these are not health standards. This is inconsistent with the Federal definition. EPA's definition is clear that SMCL's are not health related and are not enforced. http://water.epa.gov/drink/contaminants/secondarystandards.cfm or http://www.healthgoods.com/EPA_Drinking_Water_Standards_s/393.htm https://www.gpo.gov/fdsys/pkg/CFR-2002-title40-vol19/pdf/CFR-2002-title40-vol19-part143.pdf	The proposed revisions to this definition in the public comment draft are consistent with the federal definition, reproduced below. Federal Definition found at 40 CFR 143.2(f): *Secondary maximum contaminant levels means SMCLs which apply to public water systems and which, in the judgement of the Administrator, are requisite to protect the public welfare. The SMCL means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of public water system. Contamimants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.*
18. Page 4 - Detected Contaminant: MassDEP should be more concise and consistent with regards to the usage of terms like "method detection level", "detection limit" and "practical quantitation level" throughout 310 CMR 22 and 310 CMR 42. The potential impact on public confidence is too great to allow the vagaries of laboratory or method (and even which instrument within a laboratory is used) to determine which results are reported to the public via a CCR. The current definition can encourage method and laboratory shopping to get the most favorable results. MassDEP should provide guidance including specific reporting levels for each CCR reportable contaminant that would apply regardless of laboratory or method used.	This requested change is outside of the scope of proposed changesfor which MassDEP sought public comment. Any changes to this section would require additional public input. MassDEP believes that reporting concentrations of detections below the minimum required detection limit is valuable and useful information for the public.

The federal language defining detection at 40 CFR 141.151(d) would be appropriate: "For the purpose of this subpart [CCR reporting], detected means: at or above the levels prescribed by §141.23(a)(4) for inorganic contaminants, at or above the levels prescribed by §141.24(f)(7) for the contaminants listed in §141.61(a), at or above the levels prescribed by §141.24(h)(18) for the contaminants listed in §141.61(c), at or above the levels prescribed by §141.131(b)(2)(iv) for the contaminants or contaminant groups listed in §141.64, and at or above the levels prescribed by §141.25(c) for radioactive contaminants."	
19. Substantial Modification: As defined here a substantial modification can include nearly any change to a water system. Including the word "any" without any qualification in the definition implies that every change, no matter how minor, is included. Either the definition should be modified, or a clear, written, published policy in guidance is needed (which is then followed by all MassDEP staff).	This requested change is outside of the scope of proposed changesfor which MassDEP sought public comment. MassDEP made no changes other than minor typographical edits to this section, so no changes can be made without additional public comment. Guidance is currently available to help in determining when a modification is "substantial."
22.03 Compliance	
20. 22.03(2) "A Supplier of Water, upon request by the Department, shall sample and analyze its water for any parameter, at any location and frequency, deemed necessary to prevent the pollution of and secure the sanitary protection of waters used as sources of water supply and to ensure the delivery of a fit and pure water supply to all consumers, in accordance with 310 CMR 22.00. All results of such sampling and analysis shall be reported to the Department as directed and in accordance with 310 CMR 22.00. A Supplier of Water that fails to report such results to the Department as directed, and in accordance with 310 CMR 22.00, shall be presumed to have failed to conduct such monitoring." The word "pure" should be replaced with potable. What happens if the report is lost or misplaced by MassDEP staff, is there a discussion before a Notice of Noncompliance (NON) is issued? Can a consultation with the PWS and MassDEP be required before an unnecessary NON or public notice is required? Retraction of a NON or other immature/improperly issued public notice is difficult and	Ch. 111, Sec. 160 uses the word "pure" (see response to Comment #1) MassDEP generally invites regulated entities to discuss compliance issues before issuing higher level enforcement. The implementation issues raised do not specify regulatory changes.

needlessly undermines public confidence.	
21. 22.03(4) While MassDEP has only offered capitalization changes to this section, MWRA would like to be on record stating that a supplying system cannot be held responsible for changes within a downstream consecutive system.	MassDEP did not propose to change this section other than making minor typographical edits. 310 CMR 22.03(4) applies to consecutive systems that have been found to be exempt under 22.03(3). The criteria includes a written agreement between the PWS and the consecutive PWS which should define responsibilities of both parties.
22. 22.03(8) MWWA would like to discuss language related to health assessments and guidelines from the Office of Research and Standards (ORS). We feel these are often defacto Maximum Containment Levels (MCLs) that MassDEP ends up enforcing without having gone through the MCL promulgation process. Other commenter: MWRA continues to be concerned that MassDEP not use the Office of Research and Standards guideline process as a form of back door creation of maximum contaminant levels.	MassDEP is willing to discuss this further with MWWA and others.
23. 22.03(10) MWWA believes that Voluntary Samples and process control samples should be excluded from needing to be submitted to MassDEP. This paragraph should be revised to indicate that only those samples required and taken to determine compliance with 310 CMR 22.00 should be submitted to MassDEP. Does MassDEP really want the results of jar tests on hourly aluminum readings from clarifier effluent?	In the interest of public health, it is important to ensure that regardless of the reason for the sample, if the water being sampled can impact the health of the people being served by that water, the samples will be evaluated by MassDEP.
24. 22.03(10)(b)-Chain of Custody-MWWA would like a better explanation as to why MassDEP is including this section in the regulations? There should be some time period stipulated that the Chains of Custody need to be held.	In the interest of public health, it is important to document the chain of custody for all analytical results to prevent tampering, contamination, etc. The retention period for documentation of the chain of custody is the same period as that for the corresponding sample reports and MassDEP has inserted the necessary language.
25. 22.03(15) Requests for Information. "(b) No Person shall fail to provide any information requested within the time specified by the Department pursuant to 310 CMR 22.03(15)(a)." MWWA feels this language is too broad. What if a PWS simply does not have the	The MassDEP is including this or similar language, in updated regulations. A PWS that has no responsive information can reply to that effect to MassDEP's request.

information? We suggest amending this language by stating: "(b) No Person shall fail to provide any existing available information requested within a mutually agreed upon time pursuant to 310 CMR 22.03(15)(a)."	
26. 22.03(17) intentional damage: "no person shall allow it to occur", puts onus on the primary operator if anything happens within their system, if an employee does something wrong, your responsible. This starts making it almost a criminal act. It's concerning to have something like that in there.	As a result of recent criminal cases and in order to protect public health, MassDEP is including this or similar language, in all updated regulations.
27. 22.03 (18) False, Inaccurate, Incomplete or Misleading Statements. "(a) No Person shall make, nor allow or cause any other Person to make, any false, inaccurate, incomplete or misleading statement in any submission required by 310 CMR 22.00, or by any permit, order, approval, certification or registration issued pursuant to M.G.L. c. 111, § 160, or 310 CMR 22.00." "(b) No Person shall make, nor allow or cause any other Person to make, any false, inaccurate, incomplete or misleading statement in any record, report, plan, file, log, register or other document which such Person is required to keep by the terms of a permit, order, approval, certification or registration issued pursuant to M.G.L. c. 111, § 160, or 310 CMR 22.00." MWWA knows that in the past there were questions on the Annual Statistical Report which prevented a supplier from moving forward until some information was entered. If a supplier filled in a field, for instance with a zero, to move forward, by the literal interpretation of the regulation they could be subject to enforcement for making an inaccurate or false statement. MWWA would recommend some discretion language be added to these sections to ensure that a situation as described above would not become a reality.	MassDEP is including this or similar language, in all updated regulations. Implementation issues with electronic submissions should be raised to the drinking water program, and MassDEP will use its discretion to address false or inaccurate submissions through its enforcement authority.
28. 22.03 (19) Orders. "Without Limitation, the Department may issue such orders as in its opinion may be necessary to prevent the pollution and to secure the sanitary protection of all waters used as sources of water supply and to ensure the delivery of a fit and pure water supply to all consumers. Such orders may include, but shall not be limited to, orders requiring Persons to cease any activity which is in violation of M.G.L. c. 111, § 160, or 310 CMR 22.00 or to carry out activities necessary to bring such Person into compliance." MWWA feels that "Without limitation" and "in its opinion" are too broad and	This statement of authority is taken from MassDEP's statutory authority to regulate the provision of drinking water. This language includes the use of the word "pure" which MassDEP has retained in its regulations to align with its statutory authority. MassDEP will evaluate whether it can use this authority to assist PWS with its order authority in source protection circumstances.

should be stricken. Also the word "pure" should be replaced with potable. Staff indicated that this language is being inserted in regulation across the department, is MassDEP in a position to utilize this authority to assist water suppliers in their protection of their sources?	
29. 22.03(19) "Orders without limitations" seems like a law rather than a regulation, wasn't aware that MassDEP is a law creating entity. It pretty much says that we can do whatever we want without anyone checking or balancing ourselves. Its' not fair to the PWS.	MassDEP is including this or similar language, in all updated regulations. The comment appears to conflate the subsection heading "Orders" with the first phrase of the provision "Without limitation,..." That being said, the first sentence of the proposed provision tracks the language of MassDEP's water authority at MGL c.111, § 160. A restatement of Section 160 does not *create* new law. (Section 160 states that the Department may "issue such orders as in its opinion may be necessary to prevent the pollution and to secure the sanitary protection of all such waters used as sources of water supply and to ensure the delivery of a fit and pure water supply to all consumers…." The phrase "without limitation" means that the Department does not intend this restatement of its authority under that statute to limit any other authority it may possess.)
22.04 Construction, Operation and Maintenance of Public Water Systems	
30. 22.04(1)(c) "the Supplier of Water has the technical, managerial and financial capacity to operate and maintain the Public Water System in compliance with 310 CMR 22.00, and each National Primary Drinking Water Regulation in effect, at the time of the Department's determination of the system's capacity and in effect in the foreseeable future." MWWA suggests adding a time frame rather than saying "foreseeable future;" perhaps "in the next five years" would be a more appropriate threshold. other commenter: 22.04(1)(c) – "to plan for and meet foreseeable future changes in environmental	No, the federal concept of PWS "capacity" includes the ability to address and meet future changes to regulatory requirements. MassDEP crafted this text carefully to capture changes that are reasonably foreseeable.

conditions and regulatory requirements" is excessively open ended. MWRA recommends that MassDEP capitalize "Foreseeable Future" here, indicating that it intends to use the definition in 22.02 and will limit the planning requirement to 5 years out.	
31. 22.04(5) & (7) The Guidelines and Policies for Public Water Systems are not regulation and do not go through the same process that the promulgation of regulations requires. It is inappropriate for MassDEP to essentially make the Guidelines and Policies regulatory by stating in these two sections 22.04(5) and 22.04(7) that the Department may require water systems to demonstrate compliance with them. We suggest MassDEP strike reference to the Guidelines and Policies for Public Water Systems in these two sections and potentially elsewhere they are referenced in the regulations. Should MassDEP believe that parts of the Guidelines and Policies need to be incorporated into the regulations so that it can ensure compliance, then MassDEP should amend the regulations to include the specific language from the Guidelines and Policies in the regulations and follow the proper regulatory adoption process just as MassDEP is doing with the Chemical Control Strategy and Appendix M. At present, water systems would have to accept the Guidelines and Policies as regulation if changes are not made. This approach is not acceptable as Guidelines and Policies have been unilaterally developed by the MassDEP and have not followed the regulatory adoption process.	Changes requested are to a definition that is outside of the scope of review for this round of proposed edits. MassDEP made no changes other than minor typographical edits. This recommendation will be considered in subsequent round of proposed regulation changes.
32. 22.04 (13)(a)(7) it is stated that Emergency Response Plans shall be prepared to address potential or actual emergencies including: "Potential or imminent threat of chemical or microbiological contamination of the water supply over limits specified by 310 CMR 22.00, including, without limitation, any standards specific to an individual Public Water System established pursuant to a health assessment as provided in 310 CMR 22.03(8)." The Office of Research and Standards establishes contaminant limits outside of any known or established public process. These proposed regulations require water systems to take actions in response to health assessments. "Health assessment" is not defined in the regulations and it should be so that the process that ORS undertakes for determining if a contaminant is considered a risk will be understood.	Health assessments are always system specific and are not appropriate for rules setting standards of general applicability and future effect. The PWS responsible for developing the Emergency Response Plan will be fully aware of and will have the case specific health assessment and rationale. Information on health assessments is located at http://www.mass.gov/eea/docs/dep/water/laws/a-thru-h/dwguide.pdf
33. 22.04(13)(a)10 & (c) MWRA is concerned that the training requirements of the Emergency Response Plan process remain vague and yet are still fully	MassDEP disagrees that the training only applies to key operations staff. 10 hours is not a requirement. It is in a guidance document at

enforceable. MWRA recommends that MassDEP offer clarity that only key operations staff, as designated by the PWS, are required to be trained, and that MassDEP review and reduce its current requirement for 10 hours per year. As currently drafted, MassDEP's ERP process could be interpreted that 100 percent of PWS staff would need to receive the 10 hours per year of training.	http://www.mass.gov/eea/agencies/massdep/water/drinking/water-systems-ops.html#10. PWS are encouraged to work with MassDEP to update this guidance document.
34. 22.04 (13) (c) "Each water supplier must implement the Emergency Response Plan established in accordance with 310 CMR 22.04(13)(a) and (b), including without limitation the provisions for annual training of staff and local partners in the implementation of such plan in the event of a potential or actual Emergency." MWWA believes there are discrepancies in the way regions are interpreting the training requirements, especially in terms of who is required to attend and what the material has to cover. MassDEP should consider being more specific and it should just be limited to operations staff. We also suggest that MassDEP revisit the requirement of 10 hours of annual training as it may be too onerous for water systems, or make it over a three-year period instead of annually. Additional commenter notes: Our company alone must spend $3-4K annually to meet this one requirement.	MassDEP will work with staff to ensure consistent implemention of requirements.
35. 22.04(14)(b)(1)(a) MWWA has heard that the requirement for chlorine analyzers may be too costly for some of the very small systems and while there is provision in (b) for exemption, there is sometimes inconsistency between the regions on the approval of the waiver; MassDEP should address this with the regions.	MassDEP will work with staff to ensure consistent implemention of requirements.
22.05 Maximum Microbiological Contaminant Levels, Monitoring Requirements and Analytical Methods	
36. MWWA requests that MassDEP resolve the conflicting issues between the Groundwater Rule, Total Coliform Rule (TCR) and the Consumer Confidence Rule regarding public notification of fecal positives in source water for systems with 4-log removal. MWWA believes that raw water positives should not have to be reported if the water that is delivered to the consumer is appropriately treated. Notifying customers of fecal positives where no public health situation exists undermines the public's confidence in their drinking water. Since the federal rule does not require source water monitoring, we request MassDEP strike this	Notification requirements are based on a consumer's right to know and are set by the EPA for all SDWA rules. GWR notification requirements are set by EPA. MassDEP inquired about whether fecal indicator positive source samples obtained under the TCR (and the upcoming RTCR) are covered by these notification requirements, and EPA confirmed that they are. MassDEP believes that considering TCR source sample results is protective of public health and does not represent a significant financial burden.

requirement from the regulations. Samples that are not required by federal rule, and do nothing to better protect public health, are an additional financial burden for systems.	
37. 22.05(1) (a) Indicates that sampling which occurs at storage facilities does not count towards the required number of distribution system samples. This is a change from the current TCR regulations and does not appear to be referenced in the Federal RTCR regulations. As long as storage facilities are a part of the water distribution system (not before the first customer) they provide a clean, controlled, accessible sample location that is representative of the distribution system water quality. We request that MassDEP change this to allow storage tanks to count towards the minimum samples required.	EPA does not consider samples from storage facilities to be representative of the distribution system. The federal rule determines the parameters of the minimum samples. MassDEP has always required samples at storage facilities, and believes it is important to continue to gather this water quality data.
38. 22.05(1)(a) As drafted, MassDEP's implementation of the federal Total Coliform Rule goes beyond the federal requirements in several ways. MWRA recommends that MassDEP revise this section to be in closer conformance with the federal requirements. MassDEP has added the requirement for both entry point samples and storage tanks samples, and indicated that those samples would be in addition to those required by the federal rule. While MWRA supports the need for storage tank samples, in most cases these should be included within the total number of samples required by the federal rule. MassDEP has allowed itself some flexibility on this matter, but it should assume they are within the number, and require additional samples only if absolutely necessary, rather than the opposite. MassDEP has allowed no flexibility at all on the extra requirement for entry point samples, where even more flexibility is called for. In MWRA's case, many of our customer communities could be required to sample at multiple master meter locations, even if those meters are off the same MWRA transmission main. MWRA recommends that MassDEP revise this section to allow additional flexibility, to allow the selection of representative entry point locations, to allow dual use distribution system samples if a precise entry point cannot be sampled, and to begin with the default that entry point samples are within the number of samples required by the federal rule.	See previous answer. Where MassDEP believes the distribution sample is representative of either a storage tank or entry point, the agency may allow it to count for both. System specific sampling plans will be provided for PWSs with sample locations as well as the number of samples required.
39. 22.05(1)(a) The proposed rule language is effectively silent on the frequency that entry point and storage tanks samples will be required. Will this be left up to the regional staff as they implement the rule?	The frequency of all samples – including those from entry point and storage tanks - will be spelled out in the coliform sampling plan specific to each PWS.

40. 22.05(1)(a) In any case, MWRA is concerned that whatever new sampling requirements are ultimately promulgated be integrated into existing TCR sampling plans in an orderly fashion, with appropriate technical assistance to communities so that revised plans are useful in operating a safe drinking water system in an effective and efficient manner. Does MassDEP intend to rollout these requirements as part of on-going periodic sanitary surveys? Will there be central guidance so that all systems are handled in a consistent manner?	MassDEP intends to provide centralized guidance to ensure consistency as appropriate, and will provide technical assistance available to all PWSs. A sampling plan will be provided for each PWS. Sanitary Surveys will include an assessment of the current sampling plan.
41. 22.05(1)(a)1.a, b, c & d MWRA recommends that MassDEP delete the requirement for a raw water sample here. The inclusion of a raw water sample here is a relic of a period prior to the requirements of the Surface Water Treatment Rule and the Groundwater Rule, and is above the requirements of the federal Total Coliform Rule. Its inclusion here serves no legitimate purpose, and adds to confusion about the appropriate requirements of the GWR and the CCR rule. Any confusion about the required need for unnecessary and alarming public notice for source water fecal indicator positives in systems with 4-log virus inaction would be eliminated if MassDEP relied on the GWR for triggered source water sampling.	MassDEP disagrees and believes that a raw water sample result serves a public health purpose in assisting in determining the source of contamination in a timely manner.
42. 22.05(1)(a)(1) MassDEP should retain the requirement for a raw water tap in 22.05(1)(a)(1), but that tap should only be used for investigatory samples when there is an identified problem to be evaluated.	MassDEP disagrees and believes that a raw water sample result serves a public health purpose in assisting in determining the source of contamination in a timely manner.
43. 22.05(1)(a)2.b. The statement of … "A Supplier of Water shall take at least the minimum number of required samples even if the Public Water System has had an *E. coli* MCL violation or has exceeded the coliform Treatment Technique triggers in 310 CMR 22.05(4)(a)." is confusing and can be mis-interpreted. The way it is written leaves room for the supplier to forgo sampling later in the month if the number of required samples in their sampling plan has been satisfied by repeat samples.	This statement is taken from the federal rule. Guidance and training will be provided to address this item, to clarify any confusion.
44. 22.05(2)(g)1. "….shall provide notification to the Department by calling the Department's Emergency notification telephone number and using any other electronic reporting tool designated by the Department, or other Department	The current regulatory text allows for notification by email as well as our emergency telephone line. This provision does not require or mandate electronic reporting.

designated numbers. ….” MWWA suggests that you should not require electronic reporting or change “and” to “or.”	
45. 22.05(4)(a) “Treatment Technique triggers. A Supplier of Water shall conduct assessments in accordance with 310 CMR 22.05(4)(b) after exceeding any Treatment Technique trigger in 310 CMR 22.05(4)(a)1. or 2.; and shall notify the Department as soon as possible but no later than five calendar days after the collection date of the sample that triggered the assessment.” The Federal RTCR does not speak to the 5 day timeframe so this should be removed.	In the interest of public health protection and for consistency of interpretation, MassDEP believes that a specified timeline is necessary for clarity of implementation. The date of sample collection is a milestone date that is easy to work with and verify. MassDEP believes this is a necessary step for MassDEP to provide assistance and to ensure that the assessment is completed properly and in a timely manner before the PWS invests time and effort in the assessment.
46. 22.05(4)(a) MassDEP has added additional timing language to the EPA text – requiring notification “as soon as possible but no later than five calendar days after the collection date of the sample that triggered the assessment”. This adds uncertainty as it may not be clear to a system that a particular sample triggers an assessment, as the compliance calculation can only be reliably done at the end of the monitoring period. MWRA recommends that MassDEP stick with the federal rule requirement that the assessment be done as soon as possible, and submitted with 30 days of when the system exceeded the trigger. MassDEP can encourage earlier notification and consultation through training and guidance. It should not be in the regulation.	In the interest of public health protection, for clarity of implementation, and for consistency of interpretation, MassDEP believes that a specified timeline is necessary.The date of sample collection is a milestone date that is easy to work with and verify. MassDEP believes this is a necessary step for MassDEP to provide assistance and to ensure that the assessment is completed properly and in a timely manner before the PWS invests time and effort in the assessment.
47. 22.05(4)(b)3.a. – Here again MassDEP has added additional timing language to the EPA text. “as soon as practical after collecting the sample that triggered the assessment in 310 CMR 22.05(4)(a)1., but no later than 30 days after the collection date” It may not be clear to a system that a particular sample triggers an assessment, as the compliance calculation can only be reliably done at the end of the monitoring period. MWRA recommends that MassDEP stick with the federal requirement, and encourage earlier notification and consultation through training and guidance. It should not be in the regulation.	In the interest of public health protection, for clarity of implementation, and for consistency of interpretation, MassDEP belives that a specified timeline is necessary. The date of sample collection is a milestone date that is easy to work with and verify.
48. 22.05(4)(b)1.b. Level 2 Assessments conducted by Dept. approved parties. MassDEP indicated to its Safe Drinking Water Act Advisory Committee that they will allow public water systems to do their own Level 2 Assessments and in the instance of an E. coli positive, that MassDEP staff will accompany the system in the evaluation. MassDEP indicated that a certified operator at the same grade as	This comment raises implementation issues and questions about the qualifications of parties capable of performing Level 2 assessments. This suggestion will be considered by MassDEP as part of the implementation effort.

the classification of the system would be eligible to complete the assessment. We would just caution MassDEP that a secondary operator may be a licensed operator at one grade lower than the classification of the system. As MassDEP moves forward with implementation, they should allow the primary or secondary operator, or an operator at the same grade as the classification of the system, to do the Level 2 assessment.	
49. 22.05(4)(b)3.a. stipulates that the Level 1 assessment must be submitted no later than 30 days after the collection date. A system might not know it has tripped the trigger until the end of the month once all their sampling is complete so having a requirement based on the collection date is confusing.	In the interest of public health protection, for clarity of implementation, and for consistency of interpretation, MassDEP believes that the date of the collection is the best known date for starting the assessment period. The agency also believes that given the Level 1 requirements, that completing the assessment in 30 days is achievable.
50. Level 2 Assessments – How quickly will MassDEP let a system know that MassDEP will or will not do the Level 2 Assessment? There is a compliance clock on the system, but not on MassDEP to provide immediate notice if it will not do the assessment. MassDEP has indicated to the Safe Drinking Water Advisory Committee that it intends to have systems perform their own level 2 assessments. MassDEP must clarify in writing how it will handle the difference between what it actually plans on doing, given staffing constraints, and the plain text of the regulation.	MassDEP will ensure that adequate time is allowed to conduct a Level 2 Assessment.
51. 22.05(12)(a)2. - What the violation is should be made clearer. A novice reader will easily misconstrue that having to do the assessment is the violation, rather than not doing one when it is required. The transition between the total coliform MCL and the treatment technique requirement to do an assessment will be confusing to many water supply staff; the regulatory language should make it as clear as possible. Also, the next business day notice to MassDEP does not seem necessary given that by this time at least 30 days would have elapsed from when the assessment was triggered.	This language in the Massachusetts regulations is from the federal RTCR. The specific violations are listed in 22.05(11).
52. 22.05(12)(a)4. requires the supplier to report monitoring violations to MassDEP within 48 hours after discovering the violation. MWWA recommends changing that to 10 days as that was what was required in the Federal RTCR.	MassDEP concurs with this recommendation.
53. 22.05(12)(a)4. This is inconsistent with the federal reporting requirement, potentially adding uncertainty and confusion, as all federal guidance and much	MassDEP concurs with this recommendation.

professional association guidance will be based on the federal rule requirements. MWRA recommends sticking with the 10 days required in the federal rule.	
22.06	
54. 22.06(2) "The Department will review and revise as necessary the perchlorate MCL within six years of its promulgation taking into account new data on health effects, sources and occurrence, Treatment Techniques and associated issues, analytical feasibility and any other relevant information." This language should be eliminated as it is now outdated and it is expected that EPA will be undertaking a review.	MassDEP did not propose any changes this section other than making minor typographical corrections. EPA has not proposed a new MCL for perchlorate and MassDEP has reviewed the standard with currently available information and has decided not to change it at this time.
22.11B Public Water Systems Certified Operator Staffing Requirements	
55. 22.11B -- In 2011, MWWA worked with MassDEP to look at the Operator staffing section and make changes based on advances in technology for automated operations. MWWA feels some refinement is needed to what is being proposed in 22.11B in order to capture the intent of what the workgroup was recommending. MWWA is concerned that there is a lack of consistency in Section 22.11B of the regulations with respect to the uses of the terms "facility" and "system" and the fact that both terms could be subject to various interpretations based on who is reading the regulations. In order to make it very clear, we are suggesting the following: • A definition for a "Treatment Facility" needs to be added to 310 CMR 22.02 so that subsequent sections of 22.11B which reference "facility" or "system" can be clarified thereby eliminating unnecessary confusion by referring directly to a Treatment Facility, Distribution System or Public Water System • The definition of "Satellite Facility" should be better defined by MassDEP in 310 CMR 22.02 to match its intended usage in 22.11B. A Satellite Facility is a Treatment Facility operated from within a staffed Public Water System and not just from a "facility" because facility is not defined. Simply stated, we want to ensure that MassDEP's regulations provide for a reasonable allowance of today's technology as it is possible to have fully automated monitoring, operation and control of what is happening in any part of a Public Water System through advanced	MassDEP has added a definition of Treatment Facility and made related changes where appropriate (and will consider additional related changes in the subsequent regulation review). MassDEP feels it is important to have an "operator" perform these functions in the interest of public health protection. Therefore, MassDEP disagrees with the suggested change from "operated" to "staffed." In addition, there is currently a process in place for case-by-case exemptions from the operator requirements which can be utilized by a PWS. Case-by-case exemptions will allow MassDEP to consider aspects like the type, size, and history of the system along with the automated and remote operation mechanisms in place.

SCADA technology and remote communications and controls. • To be more concise and clear, there are several locations where the term "operated" should be replaced with the word "staffed." We recommend these changes given the fact that "operation" can be achieved automatically, manually, locally or remotely. When required, the physical presence of an operator is appropriately identified in the section. Given that Public Water Suppliers are facing increased staffing challenges introduced by ever evolving treatment requirements and face the same inevitable budget pressures and staffing constraints that MassDEP is presently realizing, they should be able to leverage technology without sacrificing any public health protection. In fact, we believe within the past 10-20 years this technology has not only increased operational efficiencies but has increased the protection of public health and safety by providing real-time monitoring and controlling of not only critical systems but all systems and processes. We have rewritten the section and are providing the full text in redline/strikeout as Attachment 1 to our comments.	
56. The added time and cost associated with the certification process will overburden many of our ever shrinking budgets by requiring us to have more than one Primary Operator in order to satisfy the proposed requirements.	The changes proposed clarify the need for a primary operator attending to the distribution system as well as a primary operator for the treatment facility, if one exists. One primary operator can't respond to simultaneous emergencies in the distribution system and the treatment facility. Exemptions are available (22.11B(5)).
57. 22.11B(2) Small remote systems and those systems utilizing a contract operator will have difficulty meeting the 1 hour response requirement for the Primary Operator therefore this language should be removed, with today's technology responding in person is not necessary. The response to a small water system should be acceptable as long as the operator responding is certified and the primary operator is included in any decision made.	MassDEP disagrees and believes that a primary operator should be able to respond in person within 1 hour (per 22.11B(2)). The 1 hour response time should be achievable and is necessary to protect public health and the quality of the supply. Exemptions are available (22.11B(5)).
58. 22.11B(2)(a)1.a. – "present at the treatment facility at least one seven-hour working shift each day for five days during each work week…" We believe this means that primary must work one day/shift per week at facility. If so, then should say "…at least one seven-hour working shift OR day PER workweek…" The way it reads now is unclear. Same comment applies to Distribution Primary Operator 22.11B(2)(c)(1)(a).	Suggested change would not meet clarified minimum staffing requirements. Answer to the 1st and 2nd bulleted questions is no, every shift does not require staffing at the primary operator level, and a system does not need three primary operators for a 24-hour plant.

This requirement, if it is read as one seven hour work shift each day will become an issue for small water systems and systems that have more than one shift. • Would every shift require the same license as the primary operator? • In retrospect would that mean you would need three primary operators for a 24-hour per day plant? • If the manner of very small water systems that are visited only once per month or once per week, would this require that every visit be conducted by the primary operator? If this is the case then the lack of "primary" operators in our field would cause major concerns and financial impact on these systems. Furthermore, these systems are excellent training ground for newly licensed personal. We feel that as long as the primary operator is in charge of making all decision, then the system can be inspected by an OIT of the proper grade. Without this, many OIT license would never have the opportunity to become a FULL license.	The answer to the last bulleted question is "Yes." MassDEP believes it is very important for the primary operator to be on-site. Those visits should not be done alone by an operator in training (OIT). OIT training opportunities can be provided with the primary operator. Exemptions are available (22.11B(5)).
59. 22.11B(2)(a)1.a. MassDEP is proposing what could be considered a significant change to the language, the primary treatment plant operator will be present at the treatment facility for at least one 7 hour work shift each day for 5 days each work week. Our members have raised this to be a big issue in terms of staffing requirements. Whether it's the right interpretation or not, some people are now considering that their primary treatment plant operator being there one working shift per week and then the secondary treatment plant operator is there. To now say that the primary operator must be present for 5 days would be a huge burden to a lot of COM PWS. and could require them to need more operators which we all know is a difficult challenge. In addition to the comments that we submitted in writing I want to add that comment that MassDEP needs to look at that language again.	This change is intended to clarify a public health protection safeguard and requirement that is currently misinterpreted. MassDEP believes that the staffing requirement describes the appropriate level of coverage. An exemption is available under 22.11B(5) for situations where MassDEP determines that alternative coverage is acceptable.
60. 22.11B(2)(a)1.a. Right now we're having a very hard time finding qualified people with licenses and we're having a hard time maintaining them once they've obtained their licenses. Will this in practice be a very big impact financially. I would like to be able to see the impact statement and see what MassDEP's take was on all this. I think there's a reasonable other side that needs to be considered in the impact to the state.	This change is intended to clarify a public health protection safeguard and requirement that is currently misinterpreted. MassDEP believes that the staffing requirement describes the appropriate level of coverage. An exemption is available under 22.11B(5) for situations where MassDEP determines that alternative coverage is acceptable. See MassDEP's discussion in the small business impact statement available from the Secretary of State.

61. 22.11B(2)(a)1.a. This statement should only apply to 3-4 T facilities where full time staffing is necessary. Same comment applies to Distribution Primary Operator 22.11B(2)(c)(1)(a).	MassDEP believes that mininmum staffing requirements are appropriate for all classes of treatment facilities. Exemptions are available under 22.11B(5) for situations where MassDEP determines that alternative coverage is acceptable.
62. 22.11B(2)(a)1.b. – "available to respond in person to Emergencies at the treatment facility within one hour at all times…". Again, this is far too burdensome for small systems, particularly those in rural areas who will have difficulty finding an operator who is located within an hour. There are very few small system operators and this language may allow some operators to jack up their price if they are the only available operators in the area. Non-communities can just shut down if there is an emergency. Again, this language should only be for 3-4 T systems. Also, why is only the primary allowed to respond to emergencies, why can't the secondary operator? There will be many unintended consequences to small systems with this language.	MassDEP disagrees and believes that a primary operator should be able to respond in person within 1 hour (per 22.11B(2)). The 1 hour response time should be achievable and is necessary to protect public health and the quality of the supply. Exemptions are available (22.11B(5)).
63. 22.11B(2)(a)1.b. One hour response time: This should be removed, many contract operators have systems that could be more than an hour drive depending on traffic. You certainly can't put a distance on it either as that limits rural systems. This should be removed. • Systems with appropriate automation meeting the requirements of the regulations should be allowed to allocate their staffing to a level that is most appropriate for their Public Water System without compromising public health protection. • We have reviewed the changes that MWWA is recommending and feel that they are in keeping with today's automation and provides reasonable staffing flexibility for today as well as the future, should additional technological advancements be realized. • Should the new rating system for classification of Public Water Systems result in a reclassification to a higher grade, MassDEP should grandfather the operators working in that system and not require them to receive a higher grade license.	MassDEP disagrees and believes that a primary operator should be able to respond in person within 1 hour (per 22.11B(2)). The 1 hour response time should be achievable and is necessary to protect public health and the quality of the supply. Exemptions are available (22.11B(5)). MassDEP believes the rules balance the need for in-person operation and automated oversight with new technologies. In cases where current operators do not have the appropriate grade license should their treatment facility be reclassified, MassDEP has indicated that there will be procedure to accommodate (grandfather) existing operators who work at reclassified facilities where there are no public health violations. This will allow those operators the time needed to take the exam and be properly certified.
64. 22.11B(2)(a)1.b. & (2)(c)1.b. Small water systems that fall under the definition of such should be able to have any certified operator either employed	Changes requested are to a section that is outside of the scope of review for this round of proposed edits. MassDEP proposed no

or contracted by the PWS respond to emergencies not just the primary operator. Some of our larger clients rely on us to assist them when their primary operator is unavailable. These systems can only afford to have one person on staff as the primary operator. These changes will force these smaller system to hire additional staff that is not needed for the day to day operations of the water system.	changes other than minor typographical edits to this section. This recommendation will be considered in a subsequent round of proposed regulation changes. As MassDEP considers this issue in a subsequent review, situations where an operator unfamiliar with the system may not be able to respond properly and in a timely manner during an emergency will continue to be evaluated for exemption on a case-by-case basis.
65. 22.11B(2)(a)1.b. & (2)(c)1.b. The primary operator or secondary operator should be required to respond to emergencies that escalate or begin as a public health emergency (ie ECOLI). The primary or secondary operator should have to be on site within two hours once this determination has been made.	We agree that it is important to have the primary operator on-site for emergencies and believe that 1 hour is an appropriate response period. The 1 hour response time should be achievable and is necessary to protect public health and the quality of the supply.
66. 22.11B(4) Classification of Public Water Systems: MWWA is very concerned that the new classification system may cause some systems to be out of compliance if their current operators do not have the appropriate grade license should their treatment facility be reclassified. MassDEP has indicated to MWWA that there will be a policy to grandfather existing operators who work at these facilities. MWWA believes this is the appropriate course of action given that nothing has changed with respect to their operation of the system with the regrading on paper of the treatment facility.	In cases where current operators do not have the appropriate grade license should their treatment facility be reclassified, MassDEP has indicated that there will be procedure to accommodate (grandfather) existing operators who work at reclassified facilities where there are no public health violations. This will allow those operators the time needed to take the exam and be properly certified.
67. 22.11B(4)The MMA asks that existing operators working in the system be grandfathered and not be required to receive a higher-grade license. Further, we ask that MassDEP notify systems whose classification is anticipated to change in advance of promulgation. Even if MassDEP moves forward and allows existing operators to be grandfathered in, allowing them to continue in service, the requirement to employ higher-grade operators for new positions could be very costly for municipalities. We request that the reclassified systems be given adequate time and flexibility to comply, and that, in addition to grandfathering all existing personnel, you adopt a framework that allows municipalities to petition for the use of other operators at different grade levels.	In cases where current operators do not have the appropriate grade license should their treatment facility be reclassified, MassDEP has indicated that there will be procedure to accommodate (grandfather) existing operators who work at reclassified facilities where there are no public health violations. This will allow those operators the time needed to take the exam and be properly certified.

68. 22.11B(4)(a) Note: I believe that the table is "Filtration" lists groundwater filtration as 6 pts whereas under "other treatment processes" greensand filtration is listed as 10 pts. Both applications are relatively simple and with similar risks. I would recommend unifying as 6 pts., if the MassDEP keeps the distinction. "other treatment processes" I suggest the term "greensand filtration" be changed to "oxide coated filtration" or "catalytic filtration" as there are several other competing media to greensand filter media.	This is the scoring system of the national Association of Boards of Certification (ABC). MassDEP will forward your comment to ABC.
69. 22.11B(4)(a)4. and (5) – in general, systems with SCADA systems and remote access and control capabilities should be given more weight for the exemptions section, particularly for 2T or less systems.	SCADA is considered under 22.11B(5)(d) in making an exemption decision.
70. 22.11B(5)(d) per 310 CMR 22.11.B.(5)(d). Based upon our recent experience in requesting and obtaining such an exemption for Kington's recently constructed Trackle Pond Well Manganese Removal Treatment Facility (greensand filtration), we feel that the draft regulations should be revised to inherently grant the exemption if the established minimum criteria are satisfied, and eliminate the need to obtain a site specific exemption. The existing and proposed regulation gives MassDEP the discretion of granting (or rejecting) any exemption request. These exemption criteria are well established and understandably intended to protect public health while recognizing the advances in modern technology and automation. However, the existing and proposed language does not provide any assurance to public water suppliers such as the Town of Kingston that the investment in automated operations will help them to control staffing levels. We recommend that the exemption for Automated Operations be automatically granted once the established criteria are satisfied, rather than relying upon vague standards that are subject to interpretation.	MassDEP disagrees. MassDEP believes that mininmum staffing requirements are appropriate for all classes of treatment facilities and a case-by-case review is necessary in order to grant an exemption.

71. 22.11B(5)(d) The MassDEP regulations require that treatment facilities granted an exemption under the "Automated Operations" provisions of the draft regulations would need to be "staffed a minimum of 4 hours per day" whenever the treatment facility is in operation. The simplicity of Kingston's water treatment facilities (greensand filtration and chemical feed) ensure that these facilities are easily monitored and controlled through their state-of-the-art SCADA system, while their operators (Primary and Secondary) are always available within the system during normal working hours to respond as necessary to any operational issues. Combined with their facility controls that automatically shut down the facilities when water quality parameters exceed acceptable thresholds, we feel that periodic visits (daily) to treatment facilities will provide the necessary operator oversight and protection of public health, while eliminating unnecessary staffing levels. We recommend elimination of the reference to "a minimum of 4 hours per day" for staffing of treatment facilities such as Kingston's facilities.	MassDEP believes that mininmum staffing requirements are appropriate for all classes of treatment facilities, including automated facilities.
72. 22.11B(5)(h) Why is slow sand filtration called out separately? Would it not be classified as a Grade 1-4 Treatment facility above?	Slow Sand Filtration is called out separately allows for a lower minimum staffing requirement for this kind of treatment. It is addressed separately as appropriate to the complexity of these types of treatment processes. This is the scoring system of the national Association of Boards of Certification (ABC). MassDEP will forward your comment to ABC.
73. 22.11B(5)(i)2. The current Board of Certification has been rejecting FULL license applications for operators based on the lack of experience. With these changes that will extend this process even further. In addition, they have not been allowing the following to be considered treatment: • Sodium hypochlorite injection • Water Softners • UV Disinfection	This comment is about the Division of Professional licensure's (DPL) implementation of its regulations and programs. This comment will be shared with DPL.
74. 22.11B (5)(i)2. VSS systems with certain treatment will now need Treatment OIT license; MWWA believes that lime contacting should not require an OIT Treatment license.	MassDEP disagrees. MassDEP believes that the operation of a Lime Contactors requires knowledgeand understanding of the following: chemistry, hardness, water to lime ratios, problems associated with

	caking, mixing, mixing speeds, detention times, and flocculation. This treatment is sufficiently complex that improper operation can lead to excess calcium carbonate, magnesium hydroxide scale, after precipitation,carry over solids, unstable water, interference with other treatment processes and other technical issues that require skills that have been determined to be beyond the capability of a Very Small System (VSS) operator.
75. 22.11B(13)(c) "Each water supplier must implement the Emergency Response Plan established in accordance with 310 CMR 22.04(13)(a) and (b), including without limitation the provisions for annual training of staff and local partners in the implementation of such plan in the event of a potential or actual Emergency." We believe there are discrepancies in the way regions are interpreting the training requirements, especially in terms of who is required to attend and what the material has to cover. MassDEP should consider being more specific and consistent across all regions and it should just be limited to operations staff. We also suggest that MassDEP revisit the requirement of 10 hours of annual training as it may be too onerous for water systems, or make it over a three-year period instead of annually.	MassDEP intends to provide centralized guidance to ensure consistency as appropriate in implementing the emergency response training requirements. Ten(10) hours of training is not a requirement, and is not in the regulations. It is in a guidance document at http://www.mass.gov/eea/agencies/massdep/water/drinking/water-systems-ops.html#10 ; click on Emergency response training guidance. MassDEP agrees this guidance document should be updated, and PWSs are encouraged to work with MassDEP on this project.
22.11B Public Water Systems Certified Operator Staffing Requirements –specific recommended text edits	
Throughout this section, except as noted otherwise below, recommend replacing "operated" with "staffed"; "operating" with "staffing"; "treatment facility" with "Treatment Facility"; and "facility" with "Public Water System".	MassDEP has added a definition of Treatment Facility and made related changes where appropriate (and will consider additional related changes in the subsequent regulation review). MassDEP feels it is important to have an "operator" perform these functions in the interest of public health protection. Therefore, MassDEP disagrees with the suggested change from "operated" to "staffed." In addition, there is currently a process in place for case-by-case exemptions from the operator requirements which can be utilized by a PWS. Case-by-case exemptions will allow MassDEP to consider aspects like the type, size, and history of the system along with the automated and remote operation mechanisms in place.

(3) Primary and Secondary Operator Changes (c): recommend adding the following to the start of this text: "Unless otherwise authorized in writing by the Department,…"	MassDEP believes that a PWS operating for more than 30 days without an appropriate operator represents a public health threat. Numerous options exist to meet the 30 day timeline, including contract services, redesignation of existing staff, hiring, Operartor In Training Certification, Temporary Emergency Certification and Provisional Certification.
(4) in the final topic in the table at the end of this item change the header "Facility Characteristics" to "Treatment Facility Characteristics".	This table is from the national Association of Boards of Certification (ABC). MassDEP will forward your comment to ABC.
(5)(a)6. Replace "utilized" with "employed"	Because individuals playing this role are not necessarily employees, MassDEP has not made this suggested change.
(5)(c) Replace "operate" with "staff" in the final sentence.	MassDEP disagrees with suggestion to replace the word "operate" with "staff." The meaning of those terms is not equivalent, especially where specialized operator qualificiations are needed and specifically required.
(5)(g) at end of 1st sentence add ", unless otherwise approved by the Department."	MassDEP believes that the minimum staffing requirements in this paragraph are an appropriate limit to the exemption.
(7) Satellite Facility or Treatment ~~f~~Facility part of a Seasonal System: A staffed Public Water System~~s~~ which has a ~~staffed facility with~~ centralized ~~water treatment~~ operations meeting the requirements of 310 CMR 22.11B and has one or more Satellite Facilities or Treatment ~~f~~Facilities which are part of a Seasonal System may, subject to the Department's written approval, operate such Treatment ~~f~~Facilities from the staffed ~~facility~~Public Water System using remote control of key functions sufficient to permit normally unstaffed operation, provided that such ~~facilities~~Public Water Systems comply with the following: (a) all requirements set forth in 310 CMR 22.11B(5)(d); (b) all requirements set forth in 310 CMR 22.11B(5)(a)1. through 5.; (c) all requirements set forth in 310 CMR 22.11B (5)(b). ; (d) Treatment ~~f~~Facility maintenance, chemical deliveries and other actions requiring the physical presence of certified operators shall be provided on the basis of visits to such Treatment ~~f~~Facilities from the staffed ~~facility~~Public Water System; and (e) each such Treatment ~~f~~Facility which is in operation shall be visited by a	MassDEP believes that it is the Treatment Facilities themselves that should be staffed to ensure the protection of public health, and so disagrees with the suggested change. MassDEP has clarified the language to address the other suggested edits including the use of "Treatment Facility" in this section, where appropriate.

Certified Operator at least once per day to visually check and verify the local instrumentation readings between such Treatment ~~f~~Facilities and the centralized operations of the ~~local instrumentation at the~~staffed ~~facility~~Public Water System and, if applicable, between such Treatment ~~f~~Facilities and off-site instrumentation.	
(8) Facility Verification: Before and after unstaffed operation periods, certified operators must check and confirm the validity and accuracy of data transmitted between the ~~treatment facility~~Treatment Facility and off-site location and make entry in the Treatment ~~f~~Facility log of any critical malfunctions. Critical M~~m~~alfunctions must be corrected prior to further unstaffed operation of the ~~treatment facility~~Treatment Facility or Distribution System.	MassDEP disagrees with the use of"critical" which is an undefined term and would limit the malfunctions being logged and corrections being completed. MassDEP has reviewed other suggestions and made changes where appropriate.
22.13 Variances	
76. 22.13 MWWA believes MassDEP should allow for variances of Office of Research and Standards Guidelines (ORSG's), not just MCL's. Other commenter objects to use of ORSGS but agrees with above if they must be included. Same comment for 22.13A.	Health assessments are always system specific and are not appropriate for rules setting standards of general applicability and future effect. The PWS responsible for developing the Emergency Response Plan will be fully aware of and will have the system specific health assessment and rationale. Information on health assessments is located at http://www.mass.gov/eea/docs/dep/water/laws/a-thru-h/dwguide.pdf
22.13A Small System Variances	
77. 22.13A MWWA believes MassDEP should allow for variances of Office of Research and Standards Guidelines (ORSG's), not just MCL's.	Health assessments are always system specific and are not appropriate for rules setting standards of general applicability and future effect. The PWS responsible for developing the Emergency Response Plan will be fully aware of and will have the system specific health assessment and rationale. Information on health assessments is located at http://www.mass.gov/eea/docs/dep/water/laws/a-thru-h/dwguide.pdf
22.15 General Reporting Requirements	
78. 22.15(1)(b) replace "which indicates nitrate levels in excess of 10 mg/L" and replace with "which exceeds the Nitrate MCL as described in 22.06(13)(f)." MCL	MassDEP proposed no changes other than minor typographical edits to this section. The requested changes are to a section that is

compliance based on average of two samples not one single sample.	outside of the scope of review for this round of proposed edits. However, this recommendation will be considered in a subsequent round of proposed regulation changes.
79. 22.15(1)(c) – reporting by phone AND using any other electronic reporting tool (see comment made above that it should be and/or or eliminate electronic reporting).	The current regulatory text allows for notification by email as well as our emergency telephone line, 888-304-1133. This provision does not require or mandate electronic reporting.
80. 22.15(1)(c) I ask that under 22.15 general reporting requirements with notification procedures outside of business hours that there needs to be clarifications between the "and" and the "or" section.	The current regulatory text allows for notification by email as well as our emergency telephone line, 888-304-1133. This provision does not require or mandate electronic reporting.
81. 22.15(1)(d) It appears that in attempting to be responsive to comments received from the Safe Drinking Water Act Advisory Committee, MassDEP has inadvertently created a different problem. It is now clear precisely when notice must be made –"no later than midnight", but the amount of time allowed for notice may be substantially shortened from the intended 24 hours to as little as an hour or less if results are received late into the night. MWRA recommends that MassDEP review to determine what amount of notice is expected and rewrite this text to be clear.	This notification language is in the federal regulatory requirements. MassDEP has a 24-hour emergency notification phone number, 888-304-1133.
82. 22.15(2) "Unless a shorter reporting period is prescribed elsewhere in 310 CMR 22.00, the Supplier of Water shall report to the Department the results of every test, measurement or analysis the Supplier of Water is required by 310 CMR 22.00 to make within the <u>shorter of the following time periods</u>: (a) the first ten days following the month in which the results are received or (b) the first ten days following the end of the required monitoring period as stipulated by the Department." This historic language (specifically the underlined language) should be revisited to reduce the reporting burden to the water supplier without adding any value to the regulator. Most compliance monitoring and tracking take place on a quarterly basis, submitting results and tabulations to meet the *shorter of the following time periods* requirements means submitting piecemeal information and creates a tracking and paperwork hurdle. There are already notification requirements if a result is above the MCL in place in 22.15 (1)(a) therefore, it is not necessary to receive the reports within 10 days of the results being received. Furthermore, MWWA recommends changing 10 days to at least 14 days after the end of the compliance period for reporting.	This language tracks federal regulatory language.

83. 22.15(5) Regarding the electronic submission of the Annual Statistical Report, MWWA believes that MassDEP should allow hardship exemptions for reasons aside from lack of internet access or service.	MassDEP has not received hardship requests based upon other circumstances besides the lack of internet access or service, and receives few requests for hardship exemptions from the electronic reporting requirement.
84. 22.15(8) What constitutes a "Local Drinking Water Health Advisory"? This term should be defined in the definitions section.	These are health advisories that are issued by a local health authority, such as the board of health. This recommendation will be considered in a subsequent round of proposed regulation changes.
85. 22.15(8)(b) Given that Water Management Act permits now require all permittees to implement water use restrictions based on certain triggers, we do not feel it is appropriate to suggest that the supplier consider requesting a declaration of water supply Emergency…." A water supply Emergency should really only apply when there are system capacity issues. MWWA recommends revising this section to reflect that.	This is from the Water Management Act statute (MGL c. 21G) and may be requested for a number of different reasons. This recommendation will be considered in a subsequent round of proposed regulation changes.
86. 22.15(9)(b)1.f. A pattern of unusual customer complaints should not need to be reported within 2 hours as it is not an emergency. For this to be useful as regulation, the triggers need to be unambiguous.	MassDEP believes that a pattern of unusual customer complaints may indicate a disruption of water service or contamination event. This recommendation will be considered in a subsequent round of proposed regulation changes.
87. 22.15(9)(e) MWRA recommends that MassDEP simply require notification of Emergency Response Plan updates. We believe that the documents in their entirety are security sensitive.	MassDEP did not propose any changes this section other than making minor typographical edits. The minimum reporting requirements noted later in this section include elements that are necessary to address public health emergencies and should not be sensitive.
88. 22.15(9)(e)2. "A list and description of all Emergency response training provided to system personnel and local partners during the year." MWWA made the comment above and the same concern applies to this section about making it clear who is required to attend rather than just stating "personnel."	MassDEP did not propose any changes this section other than making minor typographical edits. A list of attendees at an emergency response training is not required to be reported. MassDEP will work with staff to ensure consistent implemention of requirements.
22.16A CCR Reporting Requirements	
89. 22.16A(4)(i)8. MassDEP should specify that that *E. coli* reporting is based on the total number of *E. coli* positive samples in the finished water, not in the raw water if the system has sufficient treatment.	This text is federal text and requires reporting of the total number of positive sample test results.
90. 22.16A(27)(1) Language for Manganese—MWWA believes that the language provided for CCR reporting is too lengthy and a distinction needs to be made	The current language was intended to provide the consumer with minimum language sufficient to address their understanding of the

between the language required when you are just at the SMCL versus the language required at the ORSG or if exceeding the health advisory. There is no other secondary contaminant (or regulated contaminant for that matter) with as high a word count as Manganese. MWWA requests MassDEP revise the table accordingly.	leval of the contaminant, the source of the contaminant and the EPA and state health advisory. This recommendation will be considered in a subsequent round of proposed regulation changes.
22.20A Surface Water Treatment Rule	
91. 22.20A(5)(a)2. "...Instruments used for continuous monitoring must be calibrated with a grab sample at least every five days…" MWWA suggests that "calibrated" be replaced with "verified." Calibration is more involved (time consuming and costly) than merited every five days.	MassDEP did not propose any changes to this section other than minor typographical edits. This text is related to standard quality assurance requirements for drinking water analysis and is from federal regulatory text.
22.20G Long Term Two Enhanced Surface Water Treatment Rule	
92. MWWA has questions on the one-year water quality monitoring program that appears to have been added for UV systems to be conducted "prior to validation testing". Is this an EPA suggested or required addition? Is prototype testing on standard models acceptable or do the actual units, after fabrication, have to be tested? The language for the one-year monitoring program seems to favor the latter.	This language is from the USEPA Ultra Violet (UV) Guidance Manual (section 2.4.4) and is intended to confirm site-performance. Both prototype testing on standard models as well as actual units are acceptable. The UV units can be validated on-site or off-site.
93. In areas of 22.20G the word "people" was stricken and the word "individuals" was inserted, but individuals is not defined in 22.02. MassDEP may want to define individuals or change to Persons which is defined.	MassDEP has reviewed the use of the word "individuals" and has decided to revert back to the currently promulgated text or to "people" or "persons" where appropriate.
22.23 Use of Non-Centralized Treatment Devices and Bottled Water	
94. 22.23(4) MWWA believes that the language related to point of use and point of entry devices is best dealt with in the plumbing code and not in 310 CMR 22.00.	MassDEP proposed this change to incorporate federal language. This text follows federal text promulgated to implement the Safe Drinking Water Act and is appropriate for the Massachusetts Drinking Water regulations.
22.26 Groundwater Rule	
95. MWWA requests that MassDEP resolve the conflicting issues between the Groundwater Rule, Total Coliform Rule (TCR) and the Consumer Confidence Rule regarding public notification of fecal positives in source water for systems with 4-log removal. MWWA believes that raw water positives should not have to be reported if the water that is delivered to the consumer is appropriately treated. Notifying customers of fecal positives where no public health situation exists	MassDEP is following federal requirements and sees no conflict between the Groundwater Rule, Total Coliform Rule (TCR) and the Consumer Confidence Rule regarding public notification of fecal positives in source water for systems with 4-log removal. MassDEP believes that a raw water sample result serves a public health purpose in assisting in determining the source of contamination in a

undermines the public's confidence in their drinking water. Since the federal rule does not require source water monitoring, we request MassDEP strike this requirement from the regulations. Samples that are not required by federal rule and do nothing to better protect public health are an additional financial burden for systems.	timely manner.
96. 22.26(4)(b)3.a - Chemical Disinfection: The MassDEP proposes maintaining compliance with the Groundwater Rule using a minimum chlorine residual value (when chlorine is the approved disinfectant). Historical rules, such as the Surface Water Treatment Rule and its amendments dealing with disinfection have used the CT concept (residual concentration of disinfectant x residence time). This concept has factored in residence time, temperature, and residual. Under these rules, disinfection has been regulated using the three parameters above with flow based on the maximum hourly flow through the facility. In light of the complexities associated with disinfection, some of them listed as follows: i. A minimum regulated disinfection limit could place a facility in violation of the Stage II Disinfection Byproduct Rule, ii. Many groundwater facilities utilize multiple wells (such as the District's case) and by the time the water travels to the disinfection points where the residual is monitored, the flow could be vastly different than what is pumped a the local wells near the monitoring point; it is recommended the MassDEP reconsider this concept for the Groundwater Rule application.	MassDEP did not propose changes to this section other than minor typographical edits. The requested changes are outside of the scope of review for this rounds of proprosed edits. MassDEP also recognizes that public water system must address simultaneous compliance issues when complying with drinking water treatment requirements. This recommendation will be considered in a subsequent round of proposed regulation changes.
Other Comments	
97. On March 31, 2015 Governor Baker issued Executive Order 562 (EO 562) and directed all Commonwealth agencies to undertake a thorough review of their regulations, addressing very specific criteria, by March 31, 2016. 310 CMR 22.00 is a complex regulation and MassDEP has indicated in their regulatory review work plan that they are proposing to amend the regulation for "Federal conformity required for primacy of Revised Total Coliform Rule." Given the pressing need to get the Revised Total Coliform Rule promulgated by the April 1, 2016 federal deadline, we support moving these amendments forward. However, MWWA does still expect MassDEP to comply with the Governor's directive in EO 562 in a timely manner after promulgation of this package. We	MassDEP appreciates the commenter's understanding of the pressing need to implement the Revised Total Coliform Rule (RTCR) by April 1 2016. MassDEP will comply with EO 562 in a timely manner. MassDEP plans to meet its commitment to begin discussions about future amendments to 310 CMR 22.00, including cross connection provisions, after the promulgation and implementation of the RTCR.

would appreciate it if MassDEP could articulate the schedule by which the EO 562 review of the entirety of 310 CMR 22.00 will be complete. When the EO 562 process commences for the entirety of 310 CMR 22.00, MWWA would like MassDEP to strongly consider forming a workgroup to look specifically at 310 CMR 22.22 Cross Connections Distribution System Protection. MWWA feels that attention needs to be paid to the differing regulatory interpretations that systems encounter on the requirements and components of a residential cross connection control program.	
98. Concern with use of shall, may, must pursuant to the federal plain writing act of 2010 and want to make sure that clarity is specified within the regulations and specifically when we look at sections like Section 310 CMR 22.03(2) supplier upon request of the department changed from "may require" to "shall sample", it seems that if it must be done then it should be a "must" rather than "shall" if it has to be done. Under section 13, emergencies. Must have emergency response plan and the emergency response plan shall have at minimum, should be "must have at minimum" Shall appears 753 times May 864 times Must 649times	In 310 CMR 22.03(2) and (13), two substantively revised provisions, MassDEP has begun to adopt the convention of using "shall" to refer to mandatory requirements for clarity and consistency. MassDEP plans to continue these changes throughout 310 CMR 22.00 when it begins discussions about future amendments after the promulgation and implementation of the RTCR.
99. I am writing you in support of allowing Massachusetts Registered Sanitarians to Perform Level 2 Assessments for small drinking water systems (serving fewer than 10,000 populations). Registered Sanitarians are proven and experienced environmental health professionals who will add to the pool of qualified individuals assisting small water systems through the RTCR regulations and required actions. Furthermore, MassDEP has had a longstanding tradition of allowing MA. Registered Sanitarians to perform tasks under revised regulations, whether allowing Registered Sanitarians to design on-site wastewater treatment systems and perform Title 5 inspections under the Title 5 code, or more recently allowing MA. Registered Sanitarians to be Waste Ban Inspectors under the recently changed solid waste regulations. Also,	Currently, nothing in these regulations prohibits MassDEP from approving of any party with the appropriate skills to conduct a Level 2 Assessment.

Registered Sanitarians are tasked with the enforcement of environmental and public health regulations at the municipal level daily including private well regulations. For these reasons I encourage you to allow Massachusetts Registered Sanitarians to perform Level 2 Assessments for Small Drinking Water Systems.	
100. MMA asks that MassDEP issue a full municipal impact statement, required under Executive Order 145, before promulgation of these regulations.	MassDEP will follow the procedures under the executive order to determine any impacts to municipalities and MassDEP will provide the required information to MMA.