§ 1112. Emerging contaminant monitoring. 1. Industry and modern technology have created thousands of new chemicals that would not otherwise exist in nature. Although some of these chemicals have proven benefits, the effect of many such chemicals on human health is unknown or not fully understood. Furthermore, with the advance of science and technology, public health scientists and experts are able to identify naturally occurring contaminants that pose previously unknown hazards to human health. Where these chemicals or contaminants, collectively referred to as "emerging contaminants," enter drinking water supplies, they can present unknown but potentially serious risks to public health. New Yorkers served by public water supplies have the right to know when potentially hazardous substances contaminate their drinking water and the department must be equipped to monitor and protect the public from these emerging contaminants.

2. a. "Emerging contaminants" shall mean any physical, chemical, microbiological or radiological substance listed as an emerging contaminant pursuant to subdivision three of this section.

b. "Notification level" means the concentration level of an emerging contaminant in drinking water that the commissioner has determined, based on available scientific information, warrants public notification and may require actions, which may include enhanced monitoring and activities to reduce exposure, pursuant to this section.

c. "Covered public water system" shall mean: (i) a public water system that serves at least five service connections used by year-round residents or regularly serves at least twenty-five year-round residents; or (ii) a public water system that regularly serves at least twenty-five of the same people, four hours or more per day, for four or more days per week, for twenty-six or more weeks per year.

3. a. The commissioner shall promulgate regulations to identify and list substances as emerging contaminants that meet the following criteria:

(i) are not subject to any other substance-specific drinking water regulation of the department that establishes a maximum contaminant

level, maximum residual disinfectant level, or action level;

(ii) are known or anticipated to occur in public water systems; and

(iii) because of their quantity, concentration, or physical, chemical or infectious characteristics, may cause physical injury or illness, or otherwise pose a potential hazard to human health when present in drinking water.

b. In determining what substances shall be listed as emerging contaminants the commissioner shall, at a minimum, consider:

(i) unregulated contaminants monitored pursuant to the federal Safe Drinking Water Act (42 U.S.C. § 300g-1) as amended from time to time;

(ii) substances that require regulation or monitoring when present in drinking water in other jurisdictions outside the state of New York;

(iii) pesticide chemicals for which the United States environmental protection agency has set human health benchmarks for drinking water;

(iv) substances found at sites in remedial programs located inside and outside the state of New York, including but not limited to inactive hazardous waste sites; and

(v) recommendations from the drinking water quality council established pursuant to section eleven hundred thirteen of this title.

c. The commissioner shall, at a minimum, include the following chemicals identified as emerging contaminants in the first list of emerging contaminants: perfluorononanoic acid (PFNA); perfluorohexanesulfonic acid (PFHxS); perfluoroheptanoic acid (PFHpA); perfluorobutanesulfonic acid (PFBS); hexafluoropropylene oxide dimer acid (HFPO-DA); Perfluorodecanoic acid (PFDA); Perfluorododecanoic acid (PFDoA); Perfluorohexanoic acid (PFHxA); Perfluoroundecanoic acid (PFUnA); 11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11Cl-PF3OUdS); 9-chlorohexadecafluoro-3-oxanonane-1-sulfonic acid (9Cl-PF3ONS); 4,8-dioxa-3H-perfluorononanoic acid (ADONA); Nonafluoro-3,6-dioxaheptanoic acid (NFDHA); Perfluorobutanoic acid (PFBA); 1H, 1H, 2H, 2HPerfluorodecane sulfonic acid (8:2FTS); Perfluoro(2-ethoxyethane)sulfonic acid (PFEESA); Perfluoroheptanesulfonic acid (PFHpS); 1H,1H, 2H, 2H-Perfluorohexane sulfonic acid (4:2FTS); Perfluoro-3-methoxypropanoic acid (PFMPA); Perfluoro-4-methoxybutanoic acid (PFMBA); 1H,1H, 2H, 2H-Perfluorooctane

sulfonic acid (6:2FTS); Perfluoropentanoic acid (PFPeA); Perfluoropentanesulfonic acid (PFPeS).

d. The commissioner shall make regulations to list the following additional substances as emerging contaminants; provided however the commissioner may, upon review and recommendation by the drinking water quality council pursuant to section eleven hundred thirteen of this title determine not to include such chemicals as emerging contaminants by January first, two thousand twenty-four: 1,2,3-trichloropropane; chloromethane (methylchloride); 1,1-dichloroethane; bromomethane (methyl bromide); chlorodifluoromethene (HCFC-22); vanadium; molybdenum; cobalt; strontium; chromium-6; N-ethyl perfluorooctanesulfonamidoacetic acid (NEtFOSAA); N-methyl perfluorooctanesulfonamidoacetic acid (NMeFOSAA); Perfluorotetradecanoic acid (PFTA); Perfluorotridecanoic acid (PFTrDA). Provided, however, the commissioner may, upon review and recommendation by the drinking water quality council, determine not to include such chemicals as emerging contaminants: testosterone; and 4-androstene-3, 17-dione.

e. The commissioner shall by regulation remove any substance from the list of emerging contaminants upon adopting a maximum contaminant level for such substance.

4. Every covered public water system shall test drinking water for the presence of emerging contaminants at least once every three years pursuant to a schedule determined by the department through regulation.

5. Every test conducted in accordance with this section shall be conducted by a laboratory certified by the department pursuant to section five hundred two of this chapter. Laboratories shall submit such results electronically to the department, to any other health department with jurisdiction over the covered public water system, and to the covered public water system, in the manner prescribed pursuant to section five hundred two of this chapter.

6. The commissioner shall promulgate regulations establishing notification levels for any emerging contaminant listed pursuant to

subdivision three of this section. Any notification level established pursuant to this subdivision shall be equal to or lower than any federal lifetime health advisory level established pursuant to the federal Safe Drinking Water Act (42 U.S.C. § 300g-1). If no federal lifetime health advisory level has been established, the commissioner shall establish notification levels based upon the available scientific information, and may take into consideration recommendations of the drinking water quality council established pursuant to section eleven hundred thirteen of this title. Such notification levels shall be made easily accessible to the public through a link that is posted on the department's website and updated regularly.

7. Notwithstanding subdivision three of this section, the commissioner may, by declaration, add any physical, chemical, microbiological or radiological substance to the list of emerging contaminants established pursuant to subdivision three of this section, establish a notification level, and require testing for such substance, if the commissioner determines that: (i) such substance poses or has the potential to pose a significant hazard to human health when present in drinking water; (ii) such substance was recently detected in a public water system and has the potential to be present in other public water systems; and (iii) it appears to be prejudicial to the interests of the people to delay action by preparing and filing regulations. The commissioner shall, however, promulgate regulations adding such new emerging contaminant or establishing such notification level within one year of such declaration. Such declaration shall clearly state where and the date by which such testing must occur. After the commissioner promulgates regulations adding such emerging contaminant, such regulations shall supersede the declaration issued pursuant to this subdivision. Until such notification levels are posted on the department's website pursuant to subdivision six of this section, the commissioner shall post the notification levels established by declaration on such website so that they are easily accessible through a link to the public.

8. Whenever one or more emerging contaminants is confirmed to be present in drinking water at concentrations at or above a notification level established pursuant to this section:

a. the covered public water system shall notify the department within twenty-four hours;

b. the covered public water system shall notify all owners of real property served by the covered public water system in a time and manner to be prescribed by the department, provided that in no event shall notification occur more than ninety days after the presence of an emerging contaminant at concentrations at or above a notification level established pursuant to this section is confirmed;

c. the commissioner may directly notify such owners of real property if it is determined that the public's interest would be best served by such notification, or if the commissioner determines that the covered public water system is not acting, or cannot act in a timely manner;

d. the commissioner may require that the covered public water system take such actions as may be appropriate to reduce exposure to emerging contaminants. If the commissioner determines that the concentration of the emerging contaminant constitutes an actual or potential threat to public health, based on the best available scientific information, the commissioner shall consult with the commissioner of the department of environmental conservation regarding any further action that may be appropriate, including but not limited to actions pursuant to title twelve of article twenty-seven of the environmental conservation law.

9. The commissioner shall work in consultation with the commissioner of the department of environmental conservation to develop educational materials, and may take into consideration recommendations of the drinking water quality council established pursuant to section eleven hundred thirteen of this title. Such educational materials shall be made available through a link on the department's website that is easily accessible to the covered public water system and the general public, relating to methodologies for reducing exposure to emerging contaminants and potential actions that may be taken to mitigate or remediate emerging contaminants. Such link shall also include information relating to notification levels established by declaration pursuant to

subdivision seven of this section and by regulation pursuant to subdivision six of this section. The commissioner shall coordinate with the United States Environmental Protection Agency to ensure that the information available on the EPA's Drinking Water Watch website is available to public water systems and that information available on the EPA's Safe Drinking Water Information System is available to the public through an easily accessible link on the department's website. The website and such links shall allow, to the extent practicable, the public to easily access information including but not limited to, basic water system information, including system identification number, name and type, department contacts, public notices, violations and enforcement actions taken by the state and federal government. The website and such links shall be monitored and updated regularly by the department. The commissioner shall also provide the covered public water system with information relating to potential funding sources provided by the state and federal government for mitigation or remedial activities, and to reduce the exposure to emerging contaminants.

10. Any owner of real property, including any owner's agent, to whom a covered public water system has provided notification of the exceedance of a notification level established pursuant to subdivision six of this section, shall take all reasonable and necessary steps to provide, within ten days, any tenants with copies of the notification provided by the covered public water system.

11. The commissioner may promulgate regulations pursuant to which the department may provide financial assistance for compliance with the testing requirements of this section, to any covered public water system upon a showing that the costs associated with testing drinking water in compliance with this section would impose a financial hardship. Such regulations shall, when prioritizing public water systems for eligibility for financial assistance, incorporate provisions that give preference to public water systems serving less than ten thousand individuals.

12. The commissioner shall periodically review substances that have been identified as emerging contaminants pursuant to this section and

determine if the department should establish a maximum contaminant level for the substance. Such review shall occur, at a minimum, once every three years.

13. The commissioner shall make draft regulations containing the first list of emerging contaminants within one hundred eighty days of the effective date of this subdivision and shall make regulations implementing this subdivision within ninety days thereafter.

14. The commissioner shall make regulations updating the list of emerging contaminants and their associated notification levels to reflect the latest available scientific information at least once every three years. The commissioner shall add new emerging contaminants under subdivision three of this section at least once every three years.