ARTICLE 33.1-17
PUBLIC WATER SUPPLY SYSTEMS

Chapter
33.1-17-01 Public Water Supply Systems in North Dakota

CHAPTER 33.1-17-01
PUBLIC WATER SUPPLY SYSTEMS IN NORTH DAKOTA

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33.1-17-01-01. Responsibility.

It is the responsibility of any supplier of water to comply within the meaning of this chapter pursuant to North Dakota Century Code chapter 61-28.1.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-02. Definitions.

For the purpose of this chapter the following definitions shall apply:

1. "Action level" means the concentration of lead or copper in water specified in title 40 Code of Federal Regulations part 141, subpart I, section 141.80(c), that determines, in some cases, the treatment requirements set forth under title 40 Code of Federal Regulations part 141, subpart I, that a water system is required to complete.

2. "Bag filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. They are typically

constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside.

3. "Bank filtration" means a water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a riverbed or riverbanks. Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other wells.

4. "Best available technology" or "BAT" means the best technology, treatment techniques, or other means which the department finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting maximum contaminant levels for synthetic organic chemicals, any best available technology must be at least as effective as granular activated carbon.

5. "Cartridge filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. They are typically constructed as rigid or semirigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

6. "Clean compliance history", for the purposes of subpart Y, means a record of no MCL violations as specified in title 40 Code of Federal Regulations part 141.63; no monitoring violations as specified in title 40 Code of Federal Regulations part 141.21 or as specified in title 40 Code of Federal Regulations part 141, subpart Y; and no coliform treatment technique trigger exceedances or treatment technique violations as specified in title 40 Code of Federal Regulations part 141, subpart Y.

7. "Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

8. "Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.

9. "Community water system" means a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.

10. "Compliance cycle" means the nine-year calendar year cycle during which public water systems must monitor for inorganic and organic chemicals excluding lead, copper, trihalomethanes, and unregulated contaminants. Each compliance cycle consists of three 3-year compliance periods. The first calendar year cycle begins January 1, 1993, and ends December 31, 2001; the second begins January 1, 2002, and ends December 31, 2010; and the third begins January 1, 2011, and ends December 31, 2019.

11. "Compliance period" means a three-year calendar year period within a compliance cycle during which public water systems must monitor for inorganic and organic chemicals excluding lead, copper, trihalomethanes, and unregulated contaminants. Each compliance cycle has three 3-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; and the third from January 1, 1999, to December 31, 2001.

12. "Composite correction program" or "CCP" means a systematic, comprehensive procedure for identifying, prioritizing, and remedying factors that limit water treatment plant performance as set forth in the United States environmental protection agency handbook entitled Optimizing Water Treatment Plant Performance Using The Composite Correction Program,

EPA/625/6-91/027, 1998 edition. A composite correction program consists of two phases, a comprehensive performance evaluation and comprehensive technical assistance.

13. "Comprehensive performance evaluation" or "CPE" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with title 40 Code of Federal Regulations part 141, subpart P and subpart T, the comprehensive performance evaluation shall consist of at least the following components:

    a. Assessment of plant performance;

    b. Evaluation of major unit processes;

    c. Identification and prioritization of performance limiting factors;

    d. Assessment of the applicability of comprehensive technical assistance; and

    e. Preparation of a comprehensive performance evaluation report.

14. "Comprehensive technical assistance" or "CTA" means the performance improvement phase of a composite correction program that is implemented if the comprehensive performance evaluation results indicate improved performance potential. During the comprehensive technical assistance phase, identified and prioritized factors that limit water treatment plant performance are systematically addressed and eliminated.

15. "Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

16. "Consecutive system" means a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

17. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

18. "Conventional filtration treatment" means a series of processes, including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

19. "Corrosion inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

20. "Cross connection" means any connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two systems.

21. "CT" or "CT calc" means the product of residual disinfectant concentration (C) in milligrams per liter determined before or at the first customer and the corresponding disinfectant contact time (T) in minutes. If disinfectants are applied, at more than one point prior to the first customer, the CT of each disinfectant sequence must be determined before or at the first customer to determine the total percent inactivation or total inactivation ratio. In determining the total inactivation ratio, the residual disinfectant concentration of each disinfection sequence and the corresponding contact time must be determined before any subsequent

disinfection application points. CT ninety-nine and nine-tenths is the CT value required for ninety-nine and nine-tenths percent (three-logarithm) inactivation of giardia lamblia cysts. CT ninety-nine point nine values for a wide variety of disinfectants and conditions are set forth under title 40 Code of Federal Regulations part 141, subpart H. CT calculated divided by CT ninety-nine and nine-tenths is the inactivation ratio. The total inactivation ratio is determined by adding together the inactivation ratio for each disinfection sequence. A total inactivation ratio equal to or greater than one point zero is assumed to provide a three-logarithm inactivation of giardia lamblia cysts.

22. "Department" means the department of environmental quality.

23. "Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which a precoat cake of diatomaceous earth filter media is deposited on a support membrane or septum, and while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

24. "Direct filtration" means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

25. "Disinfectant" means any oxidant, including chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

26. "Disinfectant contact time" (T in CT calculations) means the time in minutes that it takes for water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration (C) is measured. Where only one C is measured, T is the time in minutes that it takes for water to move from the point of disinfectant application to a point before or at where C is measured. Where more than one C is measured, T, for the first measurement of C, is the time in minutes that it takes the water to move from the first or only point of disinfectant application to a point before or at the point where the first C is measured. For subsequent measurements of C, T is the time in minutes that it takes for water to move from the previous C measurement point to the C measurement point for which the particular T is being calculated. Disinfectant contact time in pipelines must be calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. T within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

27. "Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

28. "Disinfection profile" means a summary of daily giardia lamblia inactivation through the treatment plant. The disinfection profile shall be developed as set forth under title 40 Code of Federal Regulations part 141, subpart P (141.172) and subpart T (141.530-141.536).

29. "Domestic or other nondistribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which the coliform-positive sample was taken.

30. "Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for total trihalomethanes (TTHM) and the other sample analyzed for haloacetic acids five (HAA5). Dual sample sets are collected for the purpose of conducting an initial distribution system evaluation (IDSE) under title 40 Code of Federal Regulations parts 141.600 to 141.605 inclusive, and determining compliance with the TTHM and HAA5 MCLs under title 40 Code of Federal Regulations parts 141.620 to 141.629 inclusive.

31. "Effective corrosion inhibitor residual", for the purpose of title 40 Code of Federal Regulations part 141, subpart I only, means a concentration sufficient to form a passivating film on the interior walls of pipe.

32. "Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

33. "Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

34. "Filter profile" means a graphical representation of individual filter performance based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

35. "Filtration" means a process for removing particulate matter from water by passage through porous media.

36. "Finished water" means water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection or addition of corrosion control chemicals).

37. "First draw sample" means a one-liter sample of tap water, collected in accordance with title 40 Code of Federal Regulations part 141, section 141.86(b)(2), that has been standing in plumbing pipes at least six hours and is collected without flushing the tap.

38. "Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

39. "Flowing stream" means a course of running water flowing in a definite channel.

40. "Granular activated carbon ten" or "GAC10" means granular activated carbon filter beds with an empty-bed contact time of ten minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with subpart V MCLs under title 40 Code of Federal Regulations part 141.64(b)(2) shall be one hundred twenty days.

41. "Granular activated carbon twenty" or "GAC20" means granular activated carbon filter beds with an empty-bed contact time of twenty minutes based on average daily flow and a carbon reactivation frequency of every two hundred forty days.

42. "Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

43. "Ground water under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as giardia lamblia or cryptosporidium. Ground water under the direct influence of surface water also means significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions.

44. "Haloacetic acids five" or "HAA5" means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds monochloroacetic acid, dichloroacetic acid, trichloroacetic

acid, monobromoacetic acid, and dibromoacetic acid, rounded to two significant figures after addition.

45. "Halogen" means one of the chemical elements chlorine, bromine, or iodine.

46. "Initial compliance period" means the first full compliance period that begins January 1, 1993, during which public water systems must monitor for inorganic and organic chemicals excluding lead, copper, trihalomethanes, and unregulated contaminants.

47. "Lake/reservoir" means a natural or manmade basin or hollow on the earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

48. "Large water system", for the purpose of title 40 Code of Federal Regulations part 141, subpart I only, means a water system that serves more than fifty thousand persons.

49. "Lead service line" means a service line made of lead that connects the water main to the building inlet and any pigtail, gooseneck, or other fitting that is connected to a lead line.

50. "Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called legionnaires disease.

51. "Level 1 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and, when possible, the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality, including water storage; source and treatment considerations that bear on distributed water quality, where appropriate, such as whether a ground water system is disinfected; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sampling processing. The system must conduct the assessment consistent with any state directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

52. "Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and, when possible, the likely reason that the system triggered the assessment. A level 2 assessment provides a more detailed examination of the system, including the system's monitoring and operational practices, than does a level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the state, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality, including water storage; source and treatment considerations that bear on distributed water quality, where appropriate, such as whether a ground water system is disinfected; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any state directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the state in the case of an E. coli MCL violation.

53. "Locational running annual average" or "LRAA" means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

54. "Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

55. "Maximum residual disinfectant level" or "MRDL" means a level of a disinfectant added for water treatment that must not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects.

56. "Maximum total trihalomethane potential" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after seven days at a temperature of twenty-five degrees Celsius [77 degrees Fahrenheit] or above.

57. "Medium-size water system", for the purpose of title 40 Code of Federal Regulations part 141, subpart I only, means a water system that serves three thousand three hundred one to fifty thousand persons.

58. "Membrane filtration" means a pressure-driven or vacuum-driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

59. "Near the first service connection" means at one of the twenty percent of all service connections in the entire system that are nearest the water supply treatment facility as measured by water transport time within the distribution system.

60. "Noncommunity water system" means a public water system that is not a community water system that primarily provides service to other than year-round residents. A noncommunity water system is either a "nontransient noncommunity" or "transient noncommunity" water system.

61. "Nontransient noncommunity water system" means a noncommunity water system that regularly serves at least twenty-five of the same persons over six months per year.

62. "Optimal corrosion-control treatment", for the purpose of title 40 Code of Federal Regulations part 141, subpart I only, means the corrosion-control treatment that minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

63. "Person" means an individual, corporation, company, association, partnership, municipality, or any other entity.

64. "Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

65. "Point of disinfectant application" means the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

66. "Point-of-entry treatment device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

67. "Point-of-use treatment device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

68. "Potable water" means water free from impurities in amounts sufficient to cause disease or harmful physiological effects, with the physical, chemical, biological, or radiological quality conforming to applicable maximum permissible contaminant levels.

69. "Presedimentation" means a preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

70. "Product" means any chemical or substance added to a public water system, any materials used in the manufacture of public water system components or appurtenances, or any pipe, storage tank, valve, fixture, or other materials that come in contact with water intended for use in a public water system.

71. "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals sixty or more days out of the year. A public water system includes any collection, treatment, storage, and distribution facilities under control of the operator of the system and used primarily in connection with the system; and, any collection or pretreatment storage facilities that are not under control of the operator which are used primarily in connection with the system. A public water system does not include systems that provide water through pipes or constructed conveyances other than pipes that qualify for the exclusions set forth under section 1401(4)(B)(i) and (ii) of the federal Safe Drinking Water Act [42 U.S.C. 300f(4)(B)(i) and (ii)]. A public water system is either a "community" or a "noncommunity" water system.

72. "Repeat compliance period" means any subsequent compliance period after the initial compliance period during which public water systems must monitor for inorganic and organic chemicals excluding lead, copper, trihalomethanes, and unregulated contaminants.

73. "Residual disinfectant concentration" (C in CT calculations) means the concentration of disinfectant measured in milligrams per liter in a representative sample of water.

74. "Sampling schedule" means the frequency required for submitting drinking water samples to a certified laboratory for examination.

75. "Sanitary defect" means a defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place.

76. "Sanitary survey" means an onsite review of the water source, facilities, equipment, operation, and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation, and maintenance for producing and distributing safe drinking water.

77. "Seasonal system" means a noncommunity water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season.

78. "Sedimentation" means a process for removal of solids before filtration by gravity or separation.

79. "Service line sample" means a one-liter sample of water, collected in accordance with title 40 Code of Federal Regulations part 141, section 141.86(b)(3), that has been standing for at least six hours in a service line.

80. "Single-family structure", for the purpose of title 40 Code of Federal Regulations part 141, subpart I only, means a building constructed as a single-family residence that is currently used either as a residence or a place of business.

81. "Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity resulting in substantial particulate removal by physical and biological mechanisms.

82. "Small water system", for the purpose of title 40 Code of Federal Regulations part 141, subpart I only, means a water system that serves three thousand three hundred or fewer persons.

83. "Specific ultraviolet absorption" or "SUVA" means specific ultraviolet absorption at two hundred fifty-four nanometers, an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of two hundred fifty-four nanometers in meters to the minus one by its concentration of dissolved organic carbon, the fraction of the total organic carbon that passes through a zero point four five micrometer pore diameter filter, in milligrams per liter.

84. "Subpart H systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to the requirements of title 40 Code of Federal Regulations part 141, subpart H.

85. "Supplier of water" means any person who owns or operates a public water system.

86. "Surface water" means all water which is open to the atmosphere and subject to surface runoff.

87. "System with a single service connection" means a system which supplies drinking water to consumers with a single service line.

88. "Too numerous to count" means that the total number of bacterial colonies exceeds two hundred on a forty-seven millimeter membrane filter used for coliform detection.

89. "Total organic carbon" means total organic carbon in milligrams per liter measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

90. "Total trihalomethanes" means the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane, and tribromomethane [bromoform]), rounded to two significant figures.

91. "Transient noncommunity water system" means a noncommunity water system that primarily provides service to transients.

92. "Trihalomethane" means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

93. "Two-stage lime softening" means a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

94. "Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water that will undergo no further treatment except residual disinfection and is open to the atmosphere.

95. "Virus" means a virus of fecal origin which is infectious to humans by waterborne transmission.

96. "Water system" means all sources of water and their surroundings and includes all structures, conducts, and appurtenances by means of which the water is collected, treated, stored, or delivered.

97. "Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system which is deficient in treatment, as determined by the appropriate local or state agency.

98. "Wholesale system" means a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-02, 61-28.1-03; S.L. 2017, ch. 199, §§ 68, 69

33.1-17-01-03. Coverage.

This chapter applies to all public water systems except those public water systems which meet all of the following conditions:

1. Consists only of distribution and storage facilities and does not have any collection and treatment facilities;

2. Obtains all of its water from, but is not owned or operated by, a public water system to which these regulations apply;

3. Does not sell water to any person; and

4. Is not a carrier which conveys passengers in interstate commerce.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-04. Designated responsible individuals.

The owner or operating entity of each public water system shall designate an individual, or individuals, who shall be responsible for communicating with the department in matters relating to system construction or alteration, monitoring and sampling, maintenance, operation, recordkeeping, and reporting required by these regulations. Any changes in designated individuals or assigned responsibilities shall be promptly reported to the department.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-05. Approved laboratories and analytical procedures.

All samples shall be examined by the department or by any other laboratory certified by the department for drinking water purposes, except that measurements for turbidity and free chlorine may be performed by any person deemed qualified by the department. Turbidity measurements shall be made by a nephelometric method approved by the department. All methods of sample preservation and

analyses shall be as prescribed by the department and set forth under title 40 Code of Federal Regulations part 141.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03, 61-28.1-07; S.L. 2017, ch. 199, § 69

33.1-17-01-06. Maximum contaminant levels, action levels, treatment technique requirements, and maximum residual disinfectant levels.

1. **Inorganic chemicals.** The maximum contaminant levels, action levels, and treatment technique requirements for inorganic chemical contaminants excluding disinfection byproducts shall be as prescribed by the department and set forth under title 40 Code of Federal Regulations, part 141 subpart G.

CONTAMINANT	MAXIMUM CONTAMINANT LEVEL MILLIGRAM(S) PER LITER	ACTION LEVEL MILLIGRAM(S) PER LITER	TREATMENT TECHNIQUE REQUIREMENTS
Antimony	0.006		
Arsenic	0.010		
Asbestos	7 million fibers per liter (longer than ten micrometers)		
Barium	2		
Beryllium	0.004		
Cadmium	0.005		
Chromium	0.1		
Copper		The 90th percentile level must be less than or equal to 1.3	Source water and corrosion control treatment
Cyanide (as free cyanide)	0.2		
Fluoride	4.0		
Lead		The 90th percentile level must be less than or equal to 0.015	Source water and corrosion control treatment, public education, and lead service line replacement
Mercury	0.002		
Nickel	0.1		
Nitrate (as N)	10		
Nitrite (as N)	1		
Selenium	0.05		
Thallium	0.002		
Total Nitrate and Nitrite (as N)	10		

At the discretion of the department, nitrate levels not to exceed twenty milligrams per liter may be allowed in a noncommunity water system if the supplier of water demonstrates to the satisfaction of the department that:

a. Such water will not be available to children under six months of age;

b. There will be continuous posting of the fact that nitrate levels exceed ten milligrams per liter and the potential health effect of exposure;

c. Local and state public health authorities will be notified annually of nitrate levels that exceed ten milligrams per liter; and

d. No adverse health effects shall result.

2. **Organic chemicals.** The maximum contaminant levels and treatment technique requirements for organic chemical contaminants excluding disinfection byproducts and disinfection byproduct precursors shall be as prescribed by the department and set forth under title 40 Code of Federal Regulations part 141, subpart G.

CONTAMINANT	MAXIMUM CONTAMINANT LEVEL MILLIGRAM(S) PER LITER	TREATMENT TECHNIQUE REQUIREMENTS
Nonvolatile Synthetic Organic Chemicals:		
Acrylamide		The combination (or product) of dose and monomer level may not exceed 0.05 percent dosed at 1 part per million (or equivalent)
Alachlor	0.002	
Atrazine	0.003	
Benzo (a) pyrene	0.0002	
Carbofuran	0.04	
Chlordane	0.002	
Dalapon	0.2	
Dibromochloropropane (DBCP)	0.0002	
Di (2-ethylhexyl) adipate	0.4	
Di (2-ethylhexyl) phthalate	0.006	
Dinoseb	0.007	
Diquat	0.02	
Endothall	0.1	
Endrin	0.002	
Epichlorohydrin		The combination (or product) of dose and monomer level may not exceed 0.01 percent dosed at 20 parts per million (or equivalent)
Ethylene dibromide (EDB)	0.00005	
Glyphosate	0.7	
Heptachlor	0.0004	
Heptachlor epoxide	0.0002	
Hexachlorobenzene	0.001	
Hexachlorocyclopentadiene	0.05	
Lindane	0.0002	
Methoxychlor	0.04	
Oxamyl (Vydate)	0.2	
Polychlorinated biphenyls (PCBs)	0.0005	
Pentachlorophenol	0.001	

Picloram	0.5
Simazine	0.004
Toxaphene	0.003
2,3,7,8-TCDD (Dioxin)	0.00000003
2,4-D	0.07
2,4,5-TP Silvex	0.05
Volatile Synthetic Organic Chemicals:	
Benzene	0.005
Carbon tetrachloride	0.005
p-Dichlorobenzene	0.075
o-Dichlorobenzene	0.6
1,2-Dichloroethane	0.005
1,1-Dichloroethylene	0.007
cis-1,2-Dichloroethylene	0.07
trans-1,2-Dichloroethylene	0.1
Dichloromethane	0.005
1,2-Dichloropropane	0.005
Ethylbenzene	0.7
Monochlorobenzene	0.1
Styrene	0.1
Tetrachloroethylene	0.005
Toluene	1
1,2,4-Trichlorobenzene	0.07
1,1,1-Trichloroethane	0.2
1,1,2-Trichloroethane	0.005
Trichloroethylene	0.005
Vinyl chloride	0.002
Xylenes (total)	10

3. **Filtration and disinfection treatment.**

   a. General requirements. All subpart H systems that utilize surface water sources shall provide filtration and disinfection treatment. All subpart H systems that utilize ground water sources deemed by the department to be under the direct influence of surface water shall provide disinfection treatment and shall either comply with filtration avoidance criteria or provide filtration treatment.

   b. Treatment technique requirements. The department hereby identifies filtration and disinfection as treatment techniques to protect against the potential adverse health effects of exposure to giardia lamblia, cryptosporidium, legionella, viruses, heterotrophic plate count bacteria, and turbidity. The treatment techniques apply only to subpart H systems. Subpart H systems that serve ten thousand or more persons shall be deemed to be in compliance with the treatment techniques if the requirements set forth under title 40 Code of Federal Regulations part 141, subparts H and P, are met. Subpart H systems that serve fewer than ten thousand persons shall be deemed to be in compliance with the treatment techniques if the requirements set forth under title 40 Code of Federal Regulations part 141, subpart H, are met.

4. **Radioactivity.** The maximum contaminant levels for radioactivity are as follows:

CONTAMINANT	MAXIMUM CONTAMINANT LEVEL (MCL)
Combined radium-226 and radium-228	5 picocuries per liter (pCi/L)
Gross alpha particle activity (including radium-226, but excluding radon and uranium)	15 picocuries per liter (pCi/L)
Uranium	30 micrograms per liter (ug/L)

5. **Microbiological.** The treatment technique triggers, treatment technique violations, E. coli maximum contaminant level violations, and monitoring violations are as follows:

   a. Treatment technique triggers. A system must conduct assessments, in accordance with the requirements under title 40 Code of Federal Regulations part 141, subpart Y after exceeding the following treatment technique triggers:

      (1) Level 1 treatment technique triggers.

         (a) A system, which collects forty or more samples per month, exceeds 5.0 percent total coliform-positive samples per month.

         (b) A system, which collects less than forty samples per month, has two or more total coliform-positive samples per month.

         (c) A system fails to take all required repeat samples following a total coliform-positive sample.

      (2) Level 2 treatment technique triggers.

         (a) A system incurs an E. coli maximum contaminant level violation, as specified in title 40 Code of Federal Regulations part 141, subpart Y.

         (b) A system has a second level 1 trigger, as specified in title 40 Code of Federal Regulations part 141, subpart Y, within a rolling twelve-month period unless the department has determined why the samples that caused the first level 1 treatment technique trigger were total coliform positive and has determined that the system has corrected the problem.

   b. Treatment technique violations. A system has a treatment technique violation when any of the following conditions occur:

      (1) A system exceeds a treatment technique trigger and then fails to conduct the required assessment or corrective actions within the required timeframe as specified in title 40 Code of Federal Regulations part 141, subpart Y.

      (2) A seasonal system fails to complete a state-approved start-up procedure before serving water to the public.

   c. E. coli maximum contaminant level violations. A system is in violation of the maximum contaminant level for E. coli when any of the following conditions occur:

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

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

(3) A system fails to take all required repeat samples following an E. coli-positive routine sample.

(4) A system fails to analyze for E. coli bacteria when any repeat sample tests positive for total coliform bacteria.

d. Monitoring violations. A system incurs a monitoring violation if any of the following conditions occur:

(1) A system fails to take every required routine sample in a compliance period.

(2) A system fails to analyze for E. coli following a total coliform-positive routine sample.

e. The department hereby identifies the following as the best technology, treatment techniques, or other means generally available for achieving compliance with the treatment technique triggers and E. coli maximum contaminant level: protection of wells from contamination by appropriate placement and construction; maintenance of a disinfection residual throughout the distribution system; proper maintenance of the distribution system including appropriate pipe replacement and repair procedures, cross-connection control programs, main flushing programs, proper operation and maintenance of storage tanks and reservoirs, and continual maintenance of a positive water pressure in all parts of the distribution system; filtration and disinfection or disinfection of surface water and disinfection of ground water using strong oxidants such as chlorine, chlorine dioxide, or ozone; and the development and implementation of a department-approved wellhead protection program.

6. **Disinfectants.** The maximum residual disinfectant levels for disinfectants are as follows:

DISINFECTANT	MAXIMUM RESIDUAL DISINFECTANT LEVEL IN MILLIGRAMS PER LITER
Chlorine	4.0 as free chlorine
Chloramines	4.0 as combined chlorine
Chlorine dioxide	0.8 as chlorine dioxide

The department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum residual disinfectant levels: control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.

7. **Disinfection byproducts.** The maximum contaminant levels for total trihalomethanes, haloacetic acids five, bromate, and chlorite are as follows:

DISINFECTION BYPRODUCT	MAXIMUM CONTAMINANT LEVEL IN MILLIGRAMS PER LITER
Total trihalomethanes	0.080
Haloacetic acids five	0.060
Bromate	0.010
Chlorite	1.0

The department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for total trihalomethanes and the maximum contaminant levels for haloacetic acids five, bromate, and chlorite: for total trihalomethanes and haloacetic acids five, enhanced coagulation, enhanced softening, or granular activated carbon ten with chlorine as the primary and residual disinfectant; for bromate, control of the ozone treatment process to reduce production of bromate; and for chlorite, control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels. All best available technology and compliance shall be prescribed by the department and set forth under title 40 Code of Federal Regulations part 141.64.

8. **Disinfection byproduct precursors.** The department hereby identifies enhanced coagulation and enhanced softening as treatment techniques to control the level of disinfection byproduct precursors in drinking water treatment and distribution systems. The treatment techniques apply only to subpart H community and nontransient noncommunity water systems that use conventional treatment. Such systems shall be deemed to be in compliance with the treatment techniques if the requirements set forth under title 40 Code of Federal Regulations part 141, subpart L, are met.

9. **Confirmation sampling.** The department may require confirmation samples and average confirmation sample results with initial sample results to determine compliance. At the discretion of the department, sample results due to obvious monitoring errors may be deleted prior to determining compliance.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-07. Inorganic chemical sampling and monitoring requirements.

1. Sampling frequency for community and nontransient noncommunity water systems.

   a. Inorganics excluding lead and copper. Community and nontransient noncommunity water systems shall conduct monitoring to determine compliance with the maximum contaminant levels for the inorganic chemicals, excluding lead and copper, as set forth under title 40 Code of Federal Regulations part 141, subpart C.

   b. Lead and copper. Community and nontransient noncommunity water systems shall comply with the monitoring and treatment technique requirements for lead and copper set forth under title 40 Code of Federal Regulations part 141, subpart I.

   c. Unregulated contaminants. Community and nontransient noncommunity water systems shall monitor for sulfate as set forth under title 40 Code of Federal Regulations part 141, subpart E.

   d. Monitoring waivers. With the exception of arsenic, copper, lead, nitrate, and nitrite, the department may grant community and nontransient noncommunity water systems waivers from the monitoring requirements for the inorganic chemicals as set forth under title 40 Code of Federal Regulations part 141, subparts C and E. The department may issue monitoring waivers only if the conditions set forth under title 40 Code of Federal Regulations part 142, subpart B, are fully met.

2. Sampling frequency for transient noncommunity water systems. Transient noncommunity water systems shall conduct monitoring to determine compliance with the maximum contaminant levels for nitrate and nitrite as set forth under title 40 Code of Federal Regulations part 141, subpart C.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-08. Organic chemical sampling and monitoring requirements.

1. **Volatile and nonvolatile synthetic organic chemicals.**

   a. Coverage. Community and nontransient noncommunity water systems shall conduct monitoring to determine compliance with the maximum contaminant levels for the volatile and nonvolatile synthetic organic chemicals.

   b. Sampling frequency. The number and frequency of samples shall be as prescribed by the department and set forth under title 40 Code of Federal Regulations part 141, subpart C.

   c. Compliance. Compliance for each point that is sampled shall be prescribed by the department and set forth under title 40 Code of Federal Regulations part 141, subpart C.

2. **Unregulated contaminants.**

   a. Coverage. Community and nontransient noncommunity water systems shall monitor for unregulated organic contaminants.

   b. Monitoring requirements. Systems shall monitor for unregulated organic contaminants as set forth under title 40 Code of Federal Regulations part 141, subpart E.

3. **Monitoring waivers.** With the exception of acrylamide and epichlorohydrin, the department may grant community and nontransient noncommunity water systems waivers from the monitoring requirements for the organic chemicals as set forth under title 40 Code of Federal Regulations part 141, subpart C. The department may issue waivers only if the conditions set forth under title 40 Code of Federal Regulations part 142, subpart B, are fully met.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-08.1. Disinfectants, disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors.

Public water systems shall conduct monitoring to determine compliance with maximum contaminant levels, maximum residual disinfectant levels, and treatment technique requirements for disinfectants, disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors as set forth under title 40 Code of Federal Regulations part 141, subparts L and V. Public water systems shall also comply with the requirements for conducting an initial distribution system evaluation as set forth under title 40 Code of Federal Regulations part 141, subpart U.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-09. Filtration and disinfection treatment sampling and monitoring requirements.

1. Coverage. All subpart H systems shall conduct monitoring to determine compliance with the treatment technique requirements for filtration and disinfection.

2. Systems utilizing surface water sources. All subpart H systems that utilize surface water sources shall comply with the turbidity and residual disinfectant concentration sampling and monitoring requirements set forth under title 40 Code of Federal Regulations part 141,

subpart H. Those systems serving ten thousand or more persons shall also comply with the disinfection profiling and benchmarking requirements set forth under title 40 Code of Federal Regulations part 141, subpart P. Those systems that serve ten thousand or more persons and provide conventional filtration treatment or direct filtration shall also comply with the individual filter sampling and monitoring requirements set forth under title 40 Code of Federal Regulations part 141, subpart P. Those systems serving fewer than ten thousand persons shall also comply with the requirements set forth under title 40 Code of Federal Regulations part 141, subpart T and the Federal Register volume 69, number 124, Tuesday, June 29, 2004, pages 38850-38857.

3. Systems utilizing ground water sources under the direct influence of surface water. The following sampling and monitoring requirements apply to subpart H systems that utilize ground water sources deemed by the department to be under the direct influence of surface water:

   a. All systems that provide filtration treatment shall comply with the turbidity and residual disinfectant concentration sampling and monitoring requirements set forth under title 40 Code of Federal Regulations part 141, subpart H. Those systems serving ten thousand or more persons shall also comply with the disinfection profiling and benchmarking requirements set forth under title 40 Code of Federal Regulations part 141, subpart P. Those systems that serve ten thousand or more persons and provide conventional filtration treatment or direct filtration shall also comply with the individual filter sampling and monitoring requirements set forth under title 40 Code of Federal Regulations part 141, subpart P. Those systems serving fewer than ten thousand persons shall also comply with the requirements set forth under title 40 Code of Federal Regulations part 141, subpart T and the Federal Register volume 69, number 124, Tuesday, June 29, 2004, pages 38850-38857.

   b. All systems that do not provide filtration treatment shall comply with the filtration avoidance criteria and applicable disinfection sampling and monitoring requirements set forth under title 40 Code of Federal Regulations part 141, subpart H. Those systems serving ten thousand or more persons shall also comply with the disinfection profiling and benchmarking requirements and the filtration avoidance criteria set forth under title 40 Code of Federal Regulations part 141, subpart P. Those systems serving fewer than ten thousand persons shall also comply with the requirements set forth under title 40 Code of Federal Regulations part 141, subpart T and the Federal Register volume 69, number 124, Tuesday, June 29, 2004, pages 38850-38857.

4. Recycle provisions. All subpart H systems that utilize conventional filtration or direct filtration treatment and that recycle spent filter backwash water, thickener supernatant, or liquids from dewatering processes must meet the requirements as prescribed by the department and set forth under title 40 Code of Federal Regulations part 141.76, subpart H.

5. Enhanced treatment for cryptosporidium. All public water systems that utilize a surface water source or a ground water source under the direct influence of surface water shall meet the treatment technique requirements for cryptosporidium set forth under title 40 Code of Federal Regulations part 141, subpart W. These requirements are in addition to requirements found in title 40 Code of Federal Regulations part 141, subparts H, P, and T.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-10. Radioactivity monitoring and compliance.

Community water systems shall sample for gross alpha particle activity, radium-226, radium-228, and uranium. Monitoring frequency and compliance shall be as prescribed by the department and set forth under title 40 Code of Federal Regulations parts 141.26 and 141.66.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-11. Microbiological sampling and monitoring requirements.

1. **Monitoring requirements.**

   a. General. The provisions set forth under title 40 Code of Federal Regulations part 141, subpart Y, include both the maximum contaminant level and treatment technique requirements for all public water systems.

   b. Sample siting plans. All total coliform samples must be collected according to a written sample siting plan. Systems must develop a written sample siting plan that identifies the sample collection schedule and sampling sites that are representative of the water throughout the distribution system. This plan must be submitted to the department. The plan is subject to department review and revisions. Routine, repeat, and any sampling sites necessary to meet the requirements specified under title 40 Code of Federal Regulations part 141, subparts S and Y must be shown on the plan.

      (1) The routine samples must be collected at regular time intervals throughout the month except that systems using ground water and serving four thousand nine hundred people or less may collect all of the required samples on a single day if the samples are collected from different sites.

      (2) Systems must take at least the minimum number of required samples even if the system has had an E. coli maximum contaminant level violation or has exceeded the coliform treatment technique triggers as specified in title 40 Code of Federal Regulations part 141, subpart Y.

      (3) Systems may take more than the minimum number of required routine samples and these results must be used to determine whether a coliform treatment technique trigger has been exceeded as specified in title 40 Code of Federal Regulations part 141, subpart Y. All routine and repeat total coliform samples must be taken in accordance with the existing sample siting plan.

      (4) Repeat monitoring locations must be identified in the sample siting plan. The repeat samples must be collected at the following locations, unless the provisions of paragraphs (b)(5)(a) or (b)(5)(b) are met:

         (a) At least one repeat sample must be collected from the original sampling site that was total coliform-positive.

         (b) At least one repeat sample must be collected from a site within five service connections upstream of the original total coliform-positive sampling site.

         (c) At least one repeat sample must be collected from a site within five service connections downstream of the original total coliform-positive sampling site.

      (5) If the original total coliform-positive sampling site is at or one away from the end of the distribution system the department may waive the requirement to collect at least

one repeat sample upstream or downstream of the original total coliform-positive sampling site. The system must still take all required repeat samples. However, the department may allow alternate sampling locations other than the upstream or downstream sites. Systems required to conduct triggered source water monitoring as set forth under title 40 Code of Federal Regulations part 141, subpart S, must take ground water source samples in addition to the required repeat sampling.

(a) Systems may elect to identify alternative fixed repeat locations or criteria for selecting repeat sampling sites on a case-by-case basis in a standard operating procedure. These repeat monitoring locations should be indicative of a pathway for contamination of the distribution system. The department shall review the alternative repeat monitoring locations to verify and determine the extent of potential contamination of the distribution system at the specific alternative repeat monitoring location. The department shall review the alternative repeat monitoring locations as needed.

(b) Ground water systems which serve one thousand or fewer persons may propose repeat sampling locations that differentiate potential source water and distribution system contamination, such as by sampling at entry points to the distribution system. A ground water system with a single well required to conduct triggered source water monitoring may, with the approval of the department, take one of its repeat samples at the triggered source water monitoring location as set forth under title 40 Code of Federal Regulations part 141.402(a), subpart S. The system must demonstrate, to the department's satisfaction, the sample siting plan remains representative of water quality in the distribution system. If approved by the department, the system may use that sample result to meet the monitoring requirements as set forth under title 40 Code of Federal Regulations part 141.402(a), subpart S and under title 40 Code of Federal Regulations part 141.853(a)(5)(ii), subpart Y.

[1] If a repeat sample is taken at a triggered source water monitoring location and is positive for E. coli bacteria, the system has violated the E. coli maximum contaminant level and must also comply with title 40 Code of Federal Regulations part 141.402(a)(3), subpart S. If a system takes more than one repeat sample at the triggered source water monitoring location, the system may reduce the number of additional source water samples required under title 40 Code of Federal Regulations part 141.402(a)(3), subpart S by the number of repeat samples taken at that location that were not positive for E. coli bacteria.

[2] If more than one repeat sample is taken at a triggered source water monitoring location under title 40 Code of Federal Regulations part 141.402(a), subpart S and more than one repeat sample is positive for E. coli bacteria, the system has violated the E. coli maximum contaminant level and must also comply with title 40 Code of Federal Regulations part 141.403(a)(1), subpart S.

[3] If all repeat samples taken at a triggered source water monitoring location are E. coli-negative and a repeat sample that is taken at a monitoring location other than the triggered source water monitoring location is E. coli-positive, the system has violated the E. coli maximum contaminant level, but is not required to comply with title 40 Code of Federal Regulations part 141.402(a)(3), subpart S.

(6) Any alternative repeat monitoring locations or triggered source water monitoring locations as specified under title 40 Code of Federal Regulations part 141, subpart Y and under title 40 Code of Federal Regulations part 141, subpart S, will be reviewed and approved by the department. When using these sites, the system must demonstrate that the sample siting plan remains representative of the water quality in the distribution system. It may be determined that monitoring at the entry point to the distribution system, such as for undisinfected ground water systems, is an effective way to differentiate between potential source water and distribution system problems.

c. Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices following pipe placement, replacement, or repair are sufficient, and samples invalidated by the department or laboratory, must not be used to determine whether the coliform treatment technique trigger has been exceeded as specified under title 40 Code of Federal Regulations part 141, subpart Y. Repeat samples taken in accordance with title 40 Code of Federal Regulations part 141, subpart Y are not considered special purpose samples and must be used to determine whether the coliform treatment technique trigger has been exceeded.

d. Invalidation of total coliform samples. Any total coliform-positive samples invalidated under title 40 Code of Federal Regulations part 141, subpart Y, do not count towards meeting the minimum monitoring requirements.

The department may invalidate a total coliform-positive sample only if one of the following conditions is met:

(1) The laboratory establishes the total coliform-positive result was caused by improper sample analysis.

(2) The department determines, based upon the results of the repeat samples as required under title 40 Code of Federal Regulations part 141, subpart Y, that the total coliform-positive sample resulted from a domestic or other nondistribution system problem. This provision applies only to systems that have more than one service connection and only if:

(a) All repeat samples collected at the same site as the original total coliform-positive sample are also total coliform-positive; and

(b) All repeat samples collected at a location other than the original total coliform-positive sample site are total coliform-negative.

(3) The department may determine that substantial grounds exist to indicate that the total coliform-positive result was due to a circumstance or condition not reflective of the water quality in the distribution system. The system must still collect all repeat samples and use them to determine whether a coliform treatment technique trigger has been exceeded as specified under title 40 Code of Federal Regulations part 141, subpart Y. To invalidate a total coliform-positive sample under this provision, the decision and supporting paperwork must be documented in writing and approved and signed by the supervisor of the state official who recommended the decision. The department shall make this document available to the environmental protection agency and to the public. The written documentation must state the specific cause of the total coliform-positive sample and what action the system has or will take to correct the problem. Invalidation may not be based soley on the grounds that all repeat samples are total coliform-negative.

A laboratory must invalidate a total coliform sample, unless total coliforms are detected, only if one of the following conditions is met:

(1) The sample produces a turbid culture in the absence of gas production using an analytical technique where gas formation is examined, such as the multiple-tube fermentation technique;

(2) The sample produces a turbid culture in the absence of an acid reaction in the presence-absence coliform test; or

(3) The sample exhibits confluent growth or produces colonies too numerous to count with an analytical technique using a membrane filter, such as membrane filter technique.

Systems must collect a replacement sample for total coliform bacteria analysis from the same location as the original sample if the original sample is invalidated by the department or laboratory. Replacement samples must be collected within twenty-four hours of notification by the department or laboratory and submitted for total coliform analysis. The system must continue to resample within twenty-four hours and have the sample analyzed for total coliforms until a valid result is obtained. The department may waive the twenty-four hour time limit on a case-by-case basis.

Criteria the department may implement for waiving the twenty-four hour sampling time frame includes the following:

(1) Laboratory closures; or

(2) Mail delivery issues.

2. **Monitoring frequency.**

a. General. All public water systems shall sample for total coliform bacteria in each calendar month that the system provides water to the public. The number of samples required must be determined by the population served by the system. The population range of twenty-five to one thousand includes public water systems which have at least fifteen service connections, but that serve less than twenty-five persons.

POPULATION SERVED	MINIMUM NUMBER OF SAMPLES PER MONTH
25 to 1,000	1
1,001 to 2,500	2
2,501 to 3,300	3
3,301 to 4,100	4
4,101 to 4,900	5
4,901 to 5,800	6
5,801 to 6,700	7
6,701 to 7,600	8
7,601 to 8,500	9
8,501 to 12,900	10
12,901 to 17,200	15
17,201 to 21,500	20

21,501 to 25,000	25
25,001 to 33,000	30
33,001 to 41,000	40
41,001 to 50,000	50
50,001 to 59,000	60
59,001 to 70,000	70
70,001 to 83,000	80
83,001 to 96,000	90
96,001 to 130,000	100
130,001 to 220,000	120
220,001 to 320,000	150
320,001 to 450,000	180
450,001 to 600,000	210
600,001 to 780,000	240
780,001 to 970,000	270
970,001 to 1,230,000	300
1,230,001 to 1,520,000	330
1,520,001 to 1,850,000	360
1,850,001 to 2,270,000	390
2,270,001 to 3,020,000	420
3,020,001 to 3,960,000	450
3,960,001 or more	480

Following any total coliform-positive sample taken, systems must comply with the repeat monitoring requirements and E. coli analytical requirements as specified in title 40 Code of Federal Regulations part 141, subpart Y.

As set forth under title 40 Code of Federal Regulations part 141, subpart Y, once all routine and repeat monitoring for a calendar month has been completed, either the system or the department must determine whether any coliform treatment technique triggers have been exceeded. The system must complete any assessments associated to the triggers.

b. Seasonal noncommunity water systems. All seasonal noncommunity water systems, including systems that keep the distribution system pressurized year-round must complete a state-approved start-up procedure. Start-up procedures may include source and distribution system disinfection and collection and analysis of water samples for total coliform bacteria. The system must certify back to the department, within fourteen days of opening, the start-up procedure was completed.

c. Unfiltered subpart H systems. At the discretion of the department, systems that use surface water or ground water under the direct influence of surface water that do not filter in compliance with title 40 Code of Federal Regulations part 141, subparts H, P, T, and W must collect at least one sample for total coliform bacteria analysis near the first service connection each day that the turbidity level of the source water exceeds one

nephelometric turbidity unit as specified in title 40 Code of Federal Regulations part 141, subpart H. The sample must be collected within twenty-four hours of the first exceedance unless the department determines that the system, due to logistical or other problems beyond its control, cannot have the sample analyzed within thirty hours of collection. The system must identify an alternative sample collection schedule. The sample result must be included in determining whether the coliform treatment technique trigger has been exceeded as specified under title 40 Code of Federal Regulations part 141, subpart Y.

3. **Repeat monitoring and E. coli requirements.**

a. Repeat monitoring. If a routine sample collected under the requirements specified in title 40 Code of Federal Regulations part 141, subpart Y is total coliform-positive, a system must collect no fewer than a set of three repeat samples for total coliform bacteria analysis for each total coliform-positive routine sample. The system must collect the set of repeat samples within twenty-four hours of being notified by the department or the laboratory of the positive total coliform sample. The department may extend the twenty-four hour time limit on a case-by-case basis if the system has a logistical problem or other problems beyond the system's control. The department may choose criteria for the system to use in lieu of the case-by-case decisions. The department shall specify to the system the time frame for collecting the repeat samples. The department may not waive the requirement to collect repeat samples under these provisions.

All repeat samples must be collected on the same day except that the department may allow systems with a single service connection to:

(1) Collect the required set of repeat samples over a three-day period; or

(2) Collect a larger volume repeat sample in one or more sample containers of any size as long as the total volume collected is at least three hundred milliliters.

If one or more repeat samples in the set of required repeat samples is total coliform-positive, an additional set of repeat samples must be collected, within twenty-four hours unless the department extends the twenty-four hour time frame, meeting the requirements set forth under title 40 Code of Federal Regulations part 141, subpart Y. Additional sets of repeat samples must be collected until no total coliform bacteria are detected in one complete set or the department determines a coliform treatment technique trigger as specified in title 40 Code of Federal Regulations part 141, subpart Y, has been exceeded as a result of a repeat sample being total coliform-positive. If a coliform treatment technique trigger, as identified in this provision, has been exceeded as a result of a routine sample being total coliform-positive, the system only needs to conduct one round of repeat monitoring for each total coliform-positive routine sample. The system shall report to the department and notify the public when an E. coli maximum contaminant level is exceeded.

After a system collects a routine sample and before it learns the results of that sample, if the system collects another routine sample from within five adjacent service connections of the first sample, and the first sample, after analysis, is found to contain total coliform bacteria, the system may count the subsequent sample as a repeat sample instead of a routine sample.

All routine and repeat results taken under title 40 Code of Federal Regulations part 141, subpart Y, and not invalidated by the department or laboratory, must be used to determine whether a coliform treatment technique trigger, under the provision stated above, has been exceeded.

b. E. coli testing. A system must analyze each total coliform-positive routine or repeat sample for E. coli bacteria. The system must notify the department by the end of the business day or by the end of the next business day if the department offices are closed of a positive E. coli bacteria result. The department or laboratory will not forgo E. coli testing on any total coliform-positive bacteria sample.

4. **Assessment requirements.**

a. Level 1 assessment. A level 1 assessment must be performed as soon as possible when a system exceeds a level 1 treatment technique trigger as specified in title 40 Code of Federal Regulations part 141, subpart Y.

A level 1 assessment must be conducted by the water system operator or by a consultation, such as a phone interview or onsite visit, with the department.

When completing the level 1 assessment, the system must describe sanitary defects found, what corrective actions were completed, the proposed time frame for any remaining corrective actions that need to be addressed, and any other department directives that may be required. The system may note on the assessment form that no sanitary defects were identified.

Within thirty days after learning of a treatment technique trigger exceedance, the system must submit a completed level 1 assessment form to the department. The department may extend the thirty-day time frame on a case-by-case basis.

The department shall review the completed level 1 assessment and determine if the assessment is sufficient. The assessment form must include proposed time frames for any corrective actions not completed. If the department determines the level 1 assessment not to be sufficient, the department shall consult with the system. If the department requires any revisions to the level 1 assessment, the system must submit, to the department, a revised level 1 assessment form on an agreed-upon schedule that will not exceed thirty days from the date of the consultation.

The department shall review the completed assessment form and determine if the cause of the level 1 assessment was found. If the cause of the level 1 assessment was found, the system must describe how the problem was corrected. The department shall determine on a case-by-case basis the schedule for any corrective actions that need to be addressed.

b. Level 2 assessment. A level 2 assessment must be performed as soon as possible when a system exceeds a level 2 treatment technique trigger as specified in title 40 Code of Federal Regulations part 141, subpart Y. The system must comply with any expedited actions or additional actions required by the department in the case of an E. coli maximum contaminant level violation. The department shall require a level 2 assessment be completed before a boil water order is lifted. Only the department may perform a level 2 assessment as a result of an E. coli maximum contaminant level violation.

A level 2 assessment will be conducted by the department or department-approved assessors. A system may conduct a level 2 assessment if the system has personnel with the certification or qualifications as specified by the department. A system must have personnel with an operator certification level one level higher than the water system being evaluated.

When completing the level 2 assessment, the system must describe sanitary defects found, what corrective actions were completed, the proposed time frame for any remaining corrective actions that need to be addressed, and any other department

directives that may be required. The system may note on the assessment form that no sanitary defects were identified.

Within thirty days after learning of a treatment technique trigger exceedance, the system must submit a completed level 2 assessment form to the department. The department may extend the thirty-day time frame on a case-by-case basis.

The department shall review the completed level 2 assessment and determine if the assessment is sufficient. The assessment form must include proposed time frames for any corrective actions not completed. If the department determines the level 2 assessment not to be sufficient, the department shall consult with the system. If the department requires any revisions to the level 2 assessment, the system must submit, to the department, a revised level 2 assessment form on an agreed-upon schedule that does not exceed thirty days from the date of the consultation.

The department shall review the completed assessment form and determine if the cause of the level 2 assessment was found. If the cause of the level 2 assessment was found, the system must describe how the problem was corrected. The department shall determine on a case-by-case basis the schedule for any corrective actions that need to be addressed.

c. Corrective actions. A system must correct any sanitary defects identified in either the level 1 or the level 2 assessment as specified under title 40 Code of Federal Regulations part 141, subpart Y. If any corrective actions cannot be corrected by the time the level 1 or the level 2 assessment form is required to be submitted to the department, the system must complete the corrective action(s) in accordance with an approved time frame decided upon during the consultation between the system and the department. The system must notify the department when each corrective action is completed.

d. Consultation. The department or the system may at any time during the assessment or corrective action phase request a consultation with the other entity to determine the appropriate actions that need to be taken. The system may consult with the department on all relevant information that may affect its ability to complete the corrective action, a proposed time frame scheduled for a corrective action, or any other department directives.

5. **Sanitary surveys.**

a. Frequency. All surface water and ground water under the direct influence of surface water systems shall undergo a sanitary survey no less frequently than once every year. All systems purchasing surface water or ground water under the direct influence of surface water shall undergo a sanitary survey no less frequently than once every three years.

Community ground water systems, including systems purchasing ground water, that are not providing at least four-log treatment of viruses and have not been determined by the department to exhibit outstanding performance shall undergo a sanitary survey no less frequently than once every three years. Community ground water systems, including systems purchasing ground water, which are providing at least four-log treatment of viruses or which have been determined by the department to exhibit outstanding performance shall undergo a sanitary survey no less frequently than once every five years.

Noncommunity ground water systems, including systems purchasing ground water, which are not providing at least four-log treatment of viruses shall undergo a sanitary survey no less frequently than once every three years. Noncommunity ground water

systems, including systems purchasing ground water, that are providing at least four-log treatment of viruses shall undergo a sanitary survey no less frequent than once every five years.

The department will allow sanitary surveys to be phased. The components of the phased sanitary survey must be completed within the established frequency.

b. Responsibilities. Sanitary surveys must be performed by the department or an agent approved by the department. Information collected on sources of contamination within a delineated wellhead protection area during the development and implementation of an approved wellhead protection program, if available, must be considered when conducting sanitary surveys.

The department shall review the sanitary surveys for systems serving one thousand persons or less to determine if the system is taking the proper number of monthly total coliform bacteria samples.

Public water systems are responsible for ensuring that the required sanitary surveys are conducted.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-12. Monitoring of consecutive public water systems.

When a public water system supplies water to one or more other public water systems, the department may modify the monitoring requirements imposed to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modified monitoring shall be conducted pursuant to a schedule specified by the department.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-13. Public notification.

All public water systems are required to notify the public they serve when they fail to comply with the requirements of the national primary drinking water regulations (NPDWRs), fail to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or incur other situations posing a risk to public health. Owners and operators must follow the form, manner, frequency, and content of a public notice as prescribed by the department and set forth under title 40 Code of Federal Regulations part 141, subpart Q.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-13.1. Consumer confidence reports.

1. **Coverage and general requirements.** Community water systems shall deliver an annual consumer confidence report to all billing units or service connections provided drinking water by the system. The report shall contain information on the quality of the drinking water delivered by the system and characterize risks from exposure to contaminants detected in the drinking water. For the purpose of the report, detected means at or above the levels set forth under title 40 Code of Federal Regulations part 141, subpart O.

2. **Effective dates.** Existing community water systems shall deliver annual reports by July first of each year. Annual reports shall contain information collected by December thirty-first of the previous calendar year.

   New community water systems shall deliver the first report by July first of the year after its first full calendar year in operation and subsequent reports by July first of each year. Community water systems that sell water to other community water systems shall provide applicable information to the buyer systems as set forth under title 40 Code of Federal Regulations part 141, subpart O.

3. **Content.** Each report shall contain the information set forth under title 40 Code of Federal Regulations part 141, subpart O.

4. **Report delivery.** Community water systems shall comply with the report delivery requirements set forth under title 40 Code of Federal Regulations part 141, subpart O.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-14. Reporting and recordkeeping requirements.

1. **Reporting requirements for systems.** Except when a shorter reporting period is specified, the system shall report to the department the result of any test, measurement, or analysis required within the first ten days following the month in which the results are received or the first ten days following the end of the required monitoring period as stipulated by the department, whichever of these is shorter.

   The system shall notify the department within forty-eight hours of the failure to comply with any primary drinking water regulations including failure to comply with monitoring requirements, except that failure to comply with the maximum contaminant levels for total coliform bacteria must be reported to the department no later than the end of the next business day after the system learns of the violation.

   Community water systems required to comply with title 40 Code of Federal Regulations part 141, subpart G shall report the results of all analyses to the department within thirty days of the system's receipt of the results. Subpart H systems shall comply with the reporting requirements for filtration and disinfection treatment set forth under title 40 Code of Federal Regulations part 141, subparts H, P, T, and W. Community and nontransient noncommunity water systems shall comply with the reporting requirements for lead and copper set forth under title 40 Code of Federal Regulations part 141, subpart I. Community, nontransient noncommunity, and transient noncommunity water systems using chlorine dioxide shall comply with the applicable reporting requirements for disinfectants, disinfection byproducts, and disinfection byproduct precursors set forth under title 40 Code of Federal Regulations part 141, subparts L, U, and V. Community, nontransient noncommunity, and transient noncommunity water systems shall comply with the applicable reporting requirements for total coliform bacteria set forth under title 40 Code of Federal Regulations part 141, subpart Y.

   The system is not required to report analytical results to the department in cases when the department performed the analysis.

   Within ten days of completing the public notification requirements set forth under title 40 Code of Federal Regulations part 141, subpart Q for the initial public notice and any repeat notices, public water systems must submit to the department a certification that the system has fully complied with the public notification regulations. The public water system must include with

this certification a representative copy of each type of notice distributed, published, posted, and made available to persons served by the system and to the media.

The system shall submit to the department, within the time stated in the request, copies of any records required to be maintained by the department or copies of any documents then in existence which the department is entitled to inspect under the provisions of state law.

2. **Reporting requirements for the department.** The department shall comply with the applicable reporting requirements set forth under title 40 Code of Federal Regulations part 142.15.

3. **Recordkeeping requirements for systems.** Subpart H systems shall comply with the recordkeeping requirements for filtration and disinfection treatment set forth under title 40 Code of Federal Regulations part 141, subparts H, P, T, and W. Community and nontransient noncommunity water systems shall comply with the recordkeeping requirements for lead and copper set forth under title 40 Code of Federal Regulations part 141, subpart I. Community, nontransient noncommunity, and transient noncommunity water systems using chlorine dioxide shall comply with the applicable recordkeeping requirements for disinfectants, disinfection byproducts, and disinfection byproduct precursors set forth under title 40 Code of Federal Regulations part 141, subparts L, U, and V. Community, nontransient noncommunity, and transient noncommunity water systems shall comply with the applicable recordkeeping requirements for total coliform bacteria set forth under title 40 Code of Federal Regulations part 141, subpart Y. Community water systems shall retain copies of consumer confidence reports for no less than three years.

   All public water systems shall retain on their premises or at a convenient location near their premises, the following additional records to document compliance with the remaining provisions of this chapter:

   a. Bacteriological and chemical analyses. Records of bacteriological analyses and turbidity analyses shall be kept for not less than five years. Records of chemical analyses shall be kept for not less than ten years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:

      (1) The date, place, and time of sampling and the name of the person who collected the sample;

      (2) Identification of the sample as to whether it was a routine distribution system sample, check sample, or raw or other special purpose sample;

      (3) Date of analysis;

      (4) Laboratory and person responsible for performing analysis;

      (5) The analytical technique or method used; and

      (6) The result of the analysis.

   b. Corrective actions taken. Records of action taken by the system to correct violations shall be kept for a period of not less than three years after the last action taken with respect to the particular violation involved. Assessment forms and documentation showing a corrective action, as a result of an assessment, was completed must be kept for a period of not less than five years after completion of the assessment or corrective action.

   c. Reports and communications. Copies of any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system

itself, by a private consultant, or by any local, state, or federal agency, shall be kept for a period not less than ten years after completion of the sanitary survey involved.

d. Variances and exemptions. Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than five years following the expiration of such variance or exemption.

e. Public notices and certifications. Copies of public notices issued pursuant to title 40 Code of Federal Regulations part 141, subpart Q and certifications made to the department pursuant to title 40 Code of Federal Regulations part 141.31 must be kept for three years after issuance.

f. Copies of monitoring plans developed pursuant to this part shall be kept for the same period of time as the records of analyses taken under the plan are required to be kept under subdivision a, except as specified elsewhere in this part.

4. **Recordkeeping requirements for the department.** The department shall comply with the applicable recordkeeping requirements set forth under title 40 Code of Federal Regulations part 142.14.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03, 61-28.1-05; S.L. 2017, ch. 199, § 69

33.1-17-01-15. Variances and exemptions.

1. **General authority and limitations.** The department may grant a variance to a public water system from any treatment technique requirement except the treatment technique requirements for filtration and disinfection set forth under title 40 Code of Federal Regulations part 141, subpart H. The department may grant an exemption to a public water system from any treatment technique requirement except the disinfection treatment requirements set forth under title 40 Code of Federal Regulations part 141, subpart H.

   The department may grant a variance or an exemption to a public water system from any maximum contaminant level except the maximum contaminant level for E. coli bacteria.

2. **Variances.** Variances for public water systems serving ten thousand or more persons shall comply with section 1415(a) of the federal Safe Drinking Water Act [42 U.S.C. 300g-4(a)]. Variances for public water systems serving fewer than ten thousand persons shall comply with one of the following: section 1415(a) of the federal Safe Drinking Water Act [42 U.S.C. 300g-4(a)]; or section 1415(e) of the federal Safe Drinking Water Act [42 U.S.C. 300g-4(e)] and title 40 Code of Federal Regulations part 142, subpart K.

   In granting variances pursuant to section 1415(a) of the federal Safe Drinking Water Act [42 U.S.C. 300g-4(a)], the department identifies as best technology, treatment techniques, or other means generally available for achieving compliance with the maximum contaminant levels and treatment technique requirements those set forth under title 40 Code of Federal Regulations part 142, subpart G. In granting variances pursuant to section 1415(e) of the federal Safe Drinking Water Act [42 U.S.C. 300g-4(e)], the department identifies as acceptable technologies those established under section 1412(b)(15) of the federal Safe Drinking Water Act [42 U.S.C. 300g-1(b)(15)].

3. **Exemptions.** Exemptions for public water systems shall comply with section 1416 of the federal Safe Drinking Water Act [42 U.S.C. 300g-5] and title 40 Code of Federal Regulations part 142, subpart G.

4. **Procedures.** Actions to consider a variance or exemption may be initiated by the department or by a public water system through a written request to the department. The department shall act on any written variance or exemption request submitted by a public water system within ninety days of receipt of the request. The department shall provide notice and opportunity for a public hearing before granting any variance and before prescribing a compliance schedule for any variance or exemption.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03, 61-28.1-05; S.L. 2017, ch. 199, § 69

33.1-17-01-16. Siting.

All new, altered, or expanded public water systems including wells and treatment and storage facilities necessary for the continuous operation of the system shall be located so as to:

1. Minimize potential breakdown as a result of floods, fires, or other disasters;

2. Except for intake structures, not be within the floodplain of a one hundred-year flood;

3. Prevent contamination of the water supply by existing sources of pollution; and

4. Provide sufficient property for water supply facilities to allow proper operation, maintenance, replacement, and storage of system components.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-04

33.1-17-01-17. Plans and specifications.

1. **Submission of plans.** Plans and specifications shall be prepared for all new public water systems and for alterations or extensions to existing systems. Such plans and specifications, together with other pertinent information, shall be submitted to the department for review and approval prior to awarding of contracts. Such plans and specifications shall:

   a. Be submitted in triplicate and in sufficient time to permit at least a two-week period for review and comment and with additional time to incorporate changes, if required;

   b. Be presented in legible form and of sufficient scale to facilitate review;

   c. Include supplemental information pertaining to basis of design, description of existing facilities, appraisal of future needs and such other information normally included in an engineer's report, as may be requested by the department; and

   d. Be replaced by "as-built" plans when change orders result in major changes in the facilities.

2. **Submission of revised plans, change orders, and addendums.** Any deviation from the approved plans and specifications, or use of alternate equipment, which would affect capacity, hydraulic conditions, operating units, the functioning of the water treatment process or distribution system, or the quality of water to be delivered will require department approval prior to contract for alternate equipment or any construction which is affected by such change. Revised plans and specifications, change orders, or addendums, along with pertinent supplemental information, are to be submitted to the department for review and approval.

3. **Approval of plans.** Plans and specifications reviewed by the department will be approved only when such plans and specifications fully meet and comply with existing statutes and such standards and guidelines as have been or may be established by the department.

4. **Compliance with plan approval.** Systems shall be constructed in accordance with the plans, specifications, and applicable change orders approved by the department. The department reserves the right to remove from service all or any part of a system found not to be constructed in accordance with approved plans, specifications, or change orders, or for which plans, specifications, or change orders were not approved.

5. **Operation and maintenance manual.** An operation and maintenance manual shall be prepared and supplied by the appropriate party to new or modified water supply facilities or systems. A copy of this manual shall be submitted to the department for review prior to initial operation of the new or modified facility or system.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03, 61-28.1-04; S.L. 2017, ch. 199, § 69

33.1-17-01-18. Operation and maintenance.

Public water systems shall be supervised by competent personnel and modified, operated, and maintained in accordance with guidelines that may be developed or amended by the department. North Dakota Century Code chapter 23.1-07 required certified operators for all public water systems except those that serve other than year-round residents and meet all of the following conditions:

1. The water supply is obtained solely from ground water sources that the department has determined are not under the direct influence of surface water.

2. Treatment, if provided, consists strictly of disinfection, fluoridation, sequestration, corrosion control, or other processes that involve simple chemical addition and minor operational control.

3. The water supply system is not required by the federal Safe Drinking Water Act or its implementing regulations to be operated by qualified personnel.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-19. Protection of public water systems.

1. **Cross-connection control.**

   a. Cross connections are prohibited except when and where, as approved by the authority having jurisdiction, suitable protective devices are installed, tested, and maintained to ensure proper operation on a continuing basis.

   b. A system shall be designed, installed, and maintained in such a manner as to prevent nonpotable liquids, solids, or gases from being introduced into the water through cross connections or any other piping connections to the system.

2. **Interconnections.**

   a. Interconnection between two or more systems shall be permitted only with the written approval of the department.

b. Interconnection between a nonpublic and public water system shall not be permitted unless specifically approved in writing by the department.

3. **Return of used water prohibited.** Water used for cooling, heating, or other purposes shall not be returned to the system. Such water may be discharged into an approved drainage system through an airgap or may be used for nonpotable purposes.

4. **Products in contact with water.** All products that may come into contact with water intended for use in a public water system must meet American national standards institute/national sanitation foundation international standards 60 and 61. Suppliers of water for public water systems may not willfully introduce or permit the introduction of a product into the public water system which has not first been determined to meet these standards. At the discretion of the department, suppliers of water for public water systems shall compile and maintain on file for inspection by the department a list of all products used by the system. Prior to using a product not on the list, suppliers of water for public water systems shall either determine that the product meets appropriate American national standards institute/national sanitation foundation international standards or notify the department of the type, name, and manufacturer of the product. A product will be considered as meeting these standards if so certified by an organization accredited by the American national standards institute to test and certify such products.

5. **Used materials.** Containers, piping, or materials which have been used for any purpose other than conveying potable water shall not be used.

6. **Water storage structures.** Finished water storage structures shall have a watertight cover which excludes the entrance of birds, animals, insects, and excessive dust. Public water systems shall not construct uncovered finished water storage facilities.

7. **Turbidity control.** Subpart H systems that provide conventional filtration treatment or direct filtration shall develop individual filter profiles, perform individual filter self-assessments, and arrange for the completion of comprehensive performance evaluations as set forth under title 40 Code of Federal Regulations subparts P and T. At the direction of the department, systems that are required to conduct a comprehensive performance evaluation shall arrange for the completion of a full composite correction program and implement followup recommendations that result from the composite correction program. Comprehensive performance evaluations and composite correction programs shall be conducted by a party other than the system which is approved by the department.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69

33.1-17-01-20. Ground water system - Source requirements.

In addition to the remaining provisions of this chapter, public water systems utilizing ground water sources shall comply with the monitoring and treatment technique requirements and undergo sanitary surveys as set forth under title 40 Code of Federal Regulations part 141, subpart S. This applies to public water systems that are consecutive users but not to subpart H systems and systems that combine all of their ground water with surface water prior to treatment.

History: Effective January 1, 2019.
General Authority: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 1
Law Implemented: NDCC 61-28.1-03; S.L. 2017, ch. 199, § 69