

ENVIRONMENTAL QUALITY

CHAPTER 38

PUBLIC WATER AND SEWAGE SYSTEM REQUIREMENTS

Subchapter 2

Public Water Supply Requirements

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Subchapter 2

Public Water Supply Requirements

17.38.201 PURPOSE (1) The purpose of this subchapter is to assure the safety of public water supplies with respect to bacteriological, chemical, and radiological quality and to promote efficient operation of public water supply systems through control tests, laboratory analyses, operating records, and reports. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

17.38.201A INCORPORATION BY REFERENCE--PUBLICATION DATES AND AVAILABILITY OF REFERENCED DOCUMENTS (1) Unless expressly provided otherwise, in this subchapter where the board has adopted and incorporated by reference a federal regulation, the reference is to the July 1, 2009, edition of the Code of Federal Regulations (CFR).

(2) Copies of materials adopted and incorporated by reference in this subchapter may be obtained from the Public Water Supply Section, Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901, phone: (406) 444-4400.

(3) Copies of federal materials may also be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; or from the Environmental Protection Agency internet web site at epa.gov/docs/epacfr40/chapt-l.info/subch-D/.

(4) Suppliers of public water supply systems shall comply with the portions of 40 CFR Parts 141 and 142 adopted and incorporated by reference in this subchapter. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2010 MAR p. 1798, Eff. 8/13/10.)

17.38.202 DEFINITIONS In this subchapter, the following terms have the meanings indicated below and must be used in conjunction with and supplemental to those definitions contained in 75-6-102, MCA. In addition, the board adopts and incorporates by reference the definitions in 40 CFR 141.2, except for the following terms: "person," "public water supply system (PWS)," "ground water under the direct influence of surface water (GWUDISW)," "special irrigation district," and "state." The terms "person," "public water supply system," "ground water under the direct influence of surface water," and "state," as used in the portions of 40 CFR Parts 141 and 142 adopted by reference in this subchapter, have the meanings defined below.

(1) "Act," except as used in the portions of 40 CFR Part 141 referenced in this subchapter, means Title 75, chapter 6, part 1, MCA.

(2) "Approved laboratory" means a laboratory licensed and approved by the Montana Department of Public Health and Human Services to analyze water samples from public water supply systems to determine their compliance with maximum contaminant levels (MCLs) and other monitoring requirements of this subchapter.

(3) "Ground water under the direct influence of surface water (GWUDISW)" has the same meaning as adopted and incorporated by reference from 40 CFR 141.2, except that GWUDISW determinations for regulatory compliance purposes are made in accordance with the Department of Environmental Quality Circular PWS-5, Ground Water Under the Direct Influence of Surface Water, as adopted and incorporated by reference in ARM 17.38.209.

(4) "Person" means an individual, firm, partnership, company, association, corporation, city, town, local government entity, federal agency, or any other governmental or private entity, whether organized for profit or not.

(5) "Public water supply system (PWS)" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year.

(6) "State," as used in the portions of 40 CFR Parts 141 and 142 adopted and incorporated by reference in this subchapter, means the Montana Department of Environmental Quality with respect to regulation of public water supply and wastewater systems for compliance with this subchapter, and the Montana Department of Public Health and Human Services with respect to certification of laboratories for performing water sample analyses for public water supply systems as required in 40 CFR Part 141. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2008 MAR p. 2625, Eff. 12/25/08.)

17.38.203 MAXIMUM INORGANIC CHEMICAL CONTAMINANT LEVELS

- (1) The board adopts and incorporates by reference:
- (a) 40 CFR 141.6(j) and 141.6(k), which set forth effective dates associated with a revised maximum contaminant level for arsenic;
 - (b) 40 CFR 141.11 and 141.62(b), which set forth maximum contaminant levels for inorganic contaminants;
 - (c) 40 CFR 141.65, which sets forth maximum residual disinfectant levels;
- and
- (d) 40 CFR 141.80(c), which sets forth the action levels for lead and copper.
- (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2010 MAR p. 1798, Eff. 8/13/10.)

17.38.204 MAXIMUM ORGANIC CHEMICAL CONTAMINANT LEVELS

- (1) The board adopts and incorporates by reference 40 CFR 141.61(a), 141.61(c), 141.64(a) and (a)(1), 141.64(b)(1)(i), and 141.64(b)(2)(i), which set forth maximum contaminant levels for synthetic organic contaminants, volatile organic contaminants, and disinfection byproducts. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2011 MAR p. 144, Eff. 2/11/11.)

17.38.205 MAXIMUM TURBIDITY CONTAMINANT LEVELS (1) The board adopts and incorporates by reference 40 CFR 141.13, 141.73, 141.173, 141.550, and 141.551, which set forth maximum contaminant levels for turbidity, except for the following changes:

(a) The terms "one turbidity unit" and "1 NTU" mean 1.0 nephelometric turbidity unit, and the terms "five turbidity units" and "5 NTU" mean 5.0 nephelometric turbidity units for the purposes of this subchapter.

(b) The following replaces 40 CFR 141.73(a)(1): "For systems using conventional filtration or direct filtration, the turbidity level of representative samples of the system's combined filtered water must be less than or equal to 0.5 NTU in at least 95% of the measurements taken each month, and may not at any time exceed 1.0 NTU."

(c) The following replaces 40 CFR 141.73(a)(2), and is also added at the end of 40 CFR 141.173(a)(1) and 141.551: "For systems using conventional filtration or direct filtration, the turbidity level of representative samples of a system's effluent from individual filters, measured at a point prior to mixing with effluent from other filters or other sources, may not exceed 0.5 NTU in at least 95% of the measurements taken each month, and may not at any time exceed 5.0 NTU. This requirement is not violated if the turbidity reading for the effluent from each individual filter is the first reading of the month that exceeds 0.5 NTU and the individual filter is taken off-line within 24 hours after the sample analysis that shows the exceedance."

(d) The first sentence in 40 CFR 141.551 is replaced with the following sentence: "Your system must meet three strengthened combined filter effluent turbidity limits."

(2) The department may invalidate a turbidity measurement based on documentation that demonstrates the exceedance was caused by turbidimeter performance difficulty or sample site location problems and that the measurements were not indicative of true water quality. If the department invalidates the turbidity reading on one of these bases, the turbidity reading may not be included in the 95% compliance calculations required under this rule. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2005 MAR p. 257, Eff. 1/1/05.)

17.38.206 MAXIMUM RADIOLOGICAL CONTAMINANT (1) The board adopts and incorporates by reference 40 CFR 141.66(b), (c), (d), (e), and (f), which set forth maximum contaminant levels for radiological contaminants. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2010 MAR p. 1798, Eff. 8/13/10.)

17.38.207 MAXIMUM MICROBIOLOGICAL CONTAMINANT LEVELS

(1) The board hereby adopts and incorporates by reference 40 CFR 141.63(a), 141.63(b), and 141.63(c), which set forth maximum contaminant levels for microbiological contaminants.

(2) Failure to submit the required number of repeat samples for a public water supply system is a violation of the coliform bacteria MCL set forth in 40 CFR 141.63. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.208 TREATMENT REQUIREMENTS (1) The board adopts and incorporates by reference 40 CFR 141.70, which sets forth general surface water treatment requirements, with the following changes:

(a) 40 CFR 141.70(b)(1) is modified to read "It meets the requirements for avoiding filtration in 40 CFR 141.71 as amended in ARM 17.38.208, and the disinfection requirements in 40 CFR 141.72(a), or."

(b) 40 CFR 141.70(b)(2) is modified to read "It meets the filtration requirements in 40 CFR 141.73 and in ARM 17.38.205(1)(b)(ii), and the disinfection requirements in 40 CFR 141.72(a)."

(c) 40 CFR 141.70(c) is modified to read "Each public water supply system, except a transient noncommunity system, using a surface water source or a ground water source under the direct influence of surface water must be operated by qualified personnel who meet the requirements specified in Title 37, chapter 42, parts 1 through 3, MCA."

(2) The board adopts and incorporates by reference 40 CFR 141.71, which sets forth requirements for avoiding filtration, except for the following changes:

(a) Only surface water sources from watersheds classified as A-Closed in ARM 17.30.621 may be considered for use as a public water supply source without filtration.

(b) "5 NTU" means "5.0 nephelometric turbidity units" for the purposes of this subchapter.

(c) The requirements concerning watershed protection listed in 40 CFR 141.71(b)(2)(i) through 141.71(b)(2)(iii) are replaced by the following items (i) through (iii), respectively:

(i) characterize the watershed hydrology and land ownership by:

(A) documenting land-ownership areas and specific landowners;

(B) identifying point and non-point sources of pollution discharge, including roads and drainage ditches;

(C) identifying the location of septic tanks and other waste disposal facilities and their proximity to surface water; and

(D) producing a documented watershed map depicting all of the items in (2)(c)(i) through (iii) and assigning a reference number or other code by which to identify specific areas and impacts.

(ii) identify watershed characteristics and activities that may have an adverse effect on source water quality by:

(A) documenting activities and specific land uses in all public areas on the watershed map, including pollution control measures practiced by the owner-agency and the population of users involved;

(B) identifying activities and improvements on all private lands (e.g., buildings; grazing or other agricultural uses and numbers of livestock involved; animal waste management practices; disposal of human wastes; population involved on a maximum and average-day basis; and use of fertilizers, pesticides, and herbicides); and

(C) identifying seasonal, short-term, and year-round impacts.

(iii) monitor the occurrence of activities that may have an adverse effect on source water quality by:

(A) denoting minimum surveillance, monitoring methods, and frequency; and

(B) denoting the agency, contract personnel, or other party responsible for assessing impacts and the responsible party's qualifications.

(d) The first two sentences in the last paragraph of 40 CFR 141.71(b)(2)(iii) are replaced with the following:

At a minimum, the supplier of a public water supply system shall demonstrate, through land ownership or department-approved written agreements with landowners within the watershed, or both, that it can control all human activities that may have an adverse impact on the microbiological quality of the source water or that may interfere with disinfection treatment. Adverse activities include, but are not limited to: recreational activities such as swimming, boating, camping, fishing, hiking, and hunting; and sewage and septic tank discharges. A supplier shall also demonstrate through land ownership or department-approved written agreements with landowners within the watershed, or both, that recreational activities such as fishing, swimming, boating and camping on the terminal water supply reservoir are prohibited. A terminal water supply reservoir is the area providing the storage of water immediately prior to treatment and delivery to the distribution system. A supplier shall control access on roads through land ownership or department-approved written agreements with landowners within the watershed. A supplier shall submit an annual report to the department that identifies any special concerns about the watershed and how the concerns are being addressed, describes activities in the watershed that affect water quality, and projects the adverse activities expected to occur in the future and describes how the supplier expects to address them.

(e) The board hereby adopts and incorporates by reference 40 CFR 141.171, which sets forth requirements, in addition to the requirements in 40 CFR 141.71, for avoiding filtration.

(3) The board adopts and incorporates by reference 40 CFR 141.72, which sets forth treatment requirements for public water suppliers that use surface water.

(4) The board adopts and incorporates by reference the following:

(a) 40 CFR 141.43(a) and (d), which set forth prohibition on use of lead pipes, solder, and flux;

(b) 40 CFR 141.61(b), which sets forth best available technologies (BATs) for synthetic and volatile organic contaminants;

(c) 40 CFR 141.62(c), which sets forth BATs for inorganic contaminants, and 40 CFR 141.62(d), which sets forth small system compliance technologies (SSCT) for arsenic;

(d) 40 CFR 141.63(d), which sets forth BATs for microbiological contaminants;

(e) 40 CFR 141.64(a)(2), 141.64(b)(1)(ii), 141.64(b)(2)(ii), and 141.64(b)(2)(iii), which sets forth BATs for disinfection byproducts;

(f) 40 CFR 141.66(g) and 40 CFR 141.66(h), which set forth BATs and small system compliance technologies (SSCT) for radionuclides, respectively;

(g) 40 CFR 141.76(a) and (c), which set forth recycle provisions;

(h) 40 CFR 141.81, as modified by 72 Fed. Reg. 57,782 (Oct. 10, 2007), which sets forth the applicability of lead and copper corrosion control treatment steps to small, medium, and large water systems;

(i) 40 CFR 141.82, which sets forth a description of the lead and copper corrosion control requirements;

- (j) 40 CFR 141.83, as modified by 72 Fed. Reg. 57,782 (Oct. 10, 2007), which sets forth lead and copper source water treatment requirements;
- (k) 40 CFR 141.84, as modified by 72 Fed. Reg. 57,782 (Oct. 10, 2007), which sets forth lead service line replacement requirements;
- (l) 40 CFR Part 141, Subpart J, which sets forth requirements for the use of non-centralized treatment devices;
- (m) 40 CFR Part 141, Subpart K, which sets forth treatment technique requirements for acrylamide and epichlorohydrin;
- (n) 40 CFR 141.135, which sets forth treatment technique requirements for control of disinfection byproduct precursors;
- (o) 40 CFR 141.170, which sets forth general treatment requirements in addition to the requirements in 141.70 for public water suppliers that use surface water;
- (p) 40 CFR 141.173(b), which sets forth treatment requirements, in addition to the requirements in 40 CFR 141.72, for public water suppliers that use filtered surface water;
- (q) 40 CFR 141.500, which sets forth general treatment requirements, in addition to the requirements in 141.70, for public water suppliers that use surface water or GWUDISW and that serve fewer than 10,000 people;
- (r) 40 CFR 141.501, which identifies the public water suppliers that are subject to the requirements of 40 CFR Part 141, Subpart T;
- (s) 40 CFR 141.502 which stipulates the effective date for the requirements of 40 CFR Part 141, Subpart T, except that "January 14, 2005" is changed to "January 1, 2005";
- (t) 40 CFR 141.503, which stipulates that public water suppliers that use surface water or GWUDISW and that serve fewer than 10,000 people must comply with the applicable requirements of 40 CFR Part 141, Subpart T;
- (u) 40 CFR 141.510 and 141.511, which set forth requirements for construction of finished water storage reservoirs for public water suppliers that use surface water or GWUDISW and that serve fewer than 10,000 people;
- (v) 40 CFR 141.520, 141.521 and 141.522, which stipulate that public water suppliers that use surface water or GWUDISW, do not provide filtration, and that serve fewer than 10,000 people must comply with the new watershed protection requirements of 40 CFR Part 141, Subpart T; and
- (w) 40 CFR 141.552, which describes microbiological contaminant removal efficiencies that public water suppliers must demonstrate to obtain state approval of alternative filtration technologies. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2006 MAR p. 540, Eff. 2/24/06; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.209 GROUND WATER UNDER THE DIRECT INFLUENCE OF SURFACE WATER DETERMINATIONS (1) The board adopts and incorporates by reference the Department of Environmental Quality Circular PWS-5, Ground Water Under the Direct Influence of Surface Water, 2008 edition, which sets forth the standards for making ground water under the direct influence of surface water determinations. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2008 MAR p. 2625, Eff. 12/25/08.)

17.38.210 CONSECUTIVE SYSTEM COVERAGE (1) As provided in this rule, a consecutive system that meets all of the conditions in (1)(a) through (e) may be excluded from the requirements of the National Primary Drinking Water Regulations, as described in 40 CFR Part 141. A consecutive system that is granted an exclusion under this rule is not excluded from any requirements, additional to those in 40 CFR Part 141, which are applicable to the system under Title 75, chapter 6, MCA, or rules adopted thereunder. In order to be considered for the exclusion, a consecutive system must:

- (a) consist only of distribution and storage facilities and not have any collection or treatment facilities;
- (b) obtain all of its water from, but not be owned or operated by, a public water system to which the regulations of Part 141 apply;
- (c) not sell water to any person;
- (d) not be a carrier that conveys passengers in interstate commerce;
- (e) document that the wholesale water system from which it obtains all of its water will:
 - (i) include the consecutive system in its sampling plans;
 - (ii) be responsible for issuing public notice; and
 - (iii) be responsible for issuing consumer confidence reports for the consecutive system.

(2) To obtain an exclusion from the requirements of Part 141, a consecutive system must apply to the department. The request must be in writing and must document the system's conformance with the requirements of (1)(a) through (e). The request must be accompanied by a signed copy of the written agreement between the wholesale and consecutive systems. The agreement must implement the requirements of (1)(e).

(3) Based on a consideration of potential impacts to public health, the department may grant, partially grant, or deny a request for exclusion, and may revoke or modify any exclusion after it is granted.

(4) Unless otherwise required by the department, consecutive systems are not required to duplicate their wholesaler's entry-point sampling. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 2008 MAR p. 2625, Eff. 12/25/08.)

17.38.211 GROUND WATER RULE (1) The board adopts and incorporates by reference 40 CFR Part 141, subpart S, which sets forth the requirements to ensure that systems using ground water sources are adequately protected. (History: 75-6-103, MCA; IMP: 75-6-103, MCA; NEW, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.212 INITIAL DISTRIBUTION SYSTEM EVALUATIONS (1) The board adopts and incorporates by reference 40 CFR Part 141, subpart U, which sets forth the requirements for determining monitoring locations and other requirements for subpart V compliance monitoring. (History: 75-6-103, MCA; IMP: 75-6-103, MCA; NEW, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.213 STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS
(1) The board adopts and incorporates by reference 40 CFR Part 141, subpart V, which sets forth the requirements for monitoring and other requirements for achieving compliance with maximum contaminant levels based on running annual averages for disinfection byproducts. (History: 75-6-103, MCA; IMP: 75-6-103, MCA; NEW, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.214 ENHANCED TREATMENT FOR CRYPTOSPORIDIUM (1) The board adopts and incorporates by reference 40 CFR Part 141, subpart W, which establishes or extends treatment technique requirements in lieu of maximum contaminant levels for cryptosporidium. (History: 75-6-103, MCA; IMP: 75-6-103, MCA; NEW, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.215 BACTERIOLOGICAL QUALITY SAMPLES (1) The board adopts and incorporates by reference the table in 40 CFR 141.21(a)(2), which sets forth total coliform monitoring frequency requirements.

(a) The minimum monitoring frequency for total coliforms for community and nontransient noncommunity public water supply systems is based on the average daily population served by the system during the month of peak use, and must be in accordance with the table in 40 CFR 141.21(a)(2).

(b) The supplier of water for a transient noncommunity water system shall sample according to the table in 40 CFR 141.21(a)(2), except that a supplier of water for a transient noncommunity water system that uses only ground water that is not under the direct influence of surface water and serves a maximum daily population of 1,000 persons or fewer shall sample for coliform bacteria in each calendar month during which the system provides water to the public unless allowed to sample quarterly as provided in (1)(c) or (d). The department may not, however, grant permission to sample quarterly pursuant to (1)(c) for a minimum of 24 months of system operation after a system initially becomes regulated under this rule.

(c) Upon the written request of the water supplier, the department may reduce the required sampling frequency for coliform bacteria for a transient noncommunity public water supply system that uses only ground water and serves a maximum daily population of 1,000 persons or fewer to once in each calendar quarter during which the system provides water to the public if the department determines that quarterly sampling is adequate to protect public health. This determination must be based upon the results of coliform bacteria samples from the past 24 months of system operation, sanitary surveys and any other information that indicates quarterly sampling is adequate.

(d) A water supplier who is allowed to sample quarterly pursuant to (1)(c) or who was authorized to conduct quarterly sampling on June 3, 1999, and is not required by the department to sample more frequently, may continue to sample quarterly except that:

(i) if *E. coli* bacteria or other microorganisms commonly found only in the intestinal tract of warm-blooded animals are detected in coliform bacteria samples taken under the requirements of this chapter, the supplier shall sample at least monthly, or more frequently if required by the department, until valid samples that do not contain coliform bacteria have been taken for at least 12 consecutive months of system operation. However, if the department determines before expiration of the 12-month period that the source of the contamination has been positively identified and removed, the department may allow the supplier to monitor in accordance with (c).

(ii) if a maximum contaminant level violation occurs as a result of coliform bacteria samples taken under the requirements of this chapter, the supplier shall sample at least monthly, or more frequently if required by the department pursuant to (e), until valid samples that do not contain coliform bacteria have been taken for at least 12 consecutive months of system operation. If the department determines before expiration of the 12-month period that the source of the contamination has been positively identified and removed, the department may allow the supplier to monitor in accordance with (c).

(iii) a supplier who fails to submit the required routine or repeat samples in two or more quarters during any consecutive four calendar quarters of operation shall sample at least monthly for at least 12 consecutive months.

(iv) a supplier who constructs a system or system components without approval or who has modified a system without approval, in violation of 75-6-112, MCA, and ARM 17.38.101, shall sample at least monthly, or more frequently if required by the department pursuant to (1)(e), until the supplier has submitted plans and specifications in accordance with 75-6-112, MCA, and ARM 17.38.101, the system modifications have been approved and the department has reduced sampling frequency pursuant to (1)(c).

(v) if the department determines and notifies a supplier that its source or distribution system is vulnerable to contamination based upon the results of a sanitary survey, sample analyses, technical investigations or other scientifically defensible information, the supplier shall sample at least monthly, or more frequently if required by the department pursuant to (e). If the department determines that the source of the contamination has been positively identified and removed, the department may allow the supplier to monitor in accordance with (c).

(vi) a supplier that does not maintain or operate a system in accordance with the requirements of this chapter may be required to sample monthly, or more frequently if required by the department pursuant to (1)(e), when the department determines that the violation may affect the microbiological quality of the water supply system. If the department determines that appropriate improvements in maintenance and operation have been implemented, it may allow the supplier to monitor in accordance with (1)(c). A supplier shall implement any increase in sampling frequency immediately upon receipt of written notice from the department of the increase.

(e) The department may increase the required sampling frequency of any public water supply system based upon sampling results or other conditions that indicate a risk to the health of the water users. The department shall provide the supplier with a written explanation of any revised sampling requirements. A supplier shall implement any increase in sampling frequency immediately upon receipt of written notice of the increase from the department.

(2) The board hereby adopts and incorporates by reference 40 CFR 141.21, which sets forth monitoring and analytical requirements for coliform bacteria, except as modified in the sections that follow.

(3) 40 CFR 141.21(a)(2) is not adopted, except for the table adopted in (1)(a). 40 CFR 141.21(a)(3) is not adopted.

(4) 40 CFR 141.21(a)(6) is replaced with the following: "A special purpose sample, including a sample taken to determine whether adequate disinfection has occurred after pipe placement or repair, may not be taken from a part of the public water supply distribution system that is actively serving the public. Repeat samples taken pursuant to 40 CFR 141.21(b) are not special purpose samples."

(5) 40 CFR 141.21(b)(5) is replaced with the following: "If a supplier who collects fewer than five routine samples per month has one or more total coliform-positive samples and the department does not invalidate the sample or samples under 40 CFR 141.21(c), the supplier shall collect at least five routine samples during the next month the system provides water to the public. At least one of these routine samples must be collected from the site where the previous month's contaminated sample was taken unless that site was invalidated according to 40 CFR 141.21(c)(1)(ii)."

(6) A supplier shall collect at least two samples that must be analyzed for coliform bacteria from any new source of water supply to demonstrate compliance with this subchapter before the source is connected to a public water supply system. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1987 MAR p. 311, Eff. 3/27/87; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 1998 MAR p. 1927, Eff. 6/26/98; AMD, 1999 MAR p. 1222, Eff. 6/4/99; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2004 MAR p. 3016, Eff. 1/1/05.)

17.38.216 CHEMICAL AND RADIOLOGICAL QUALITY SAMPLES

(1) A supplier of water shall collect water samples taken from each entry point location serving a community and nontransient noncommunity public water supply system for analysis by an approved laboratory of the following inorganic chemicals:

- (a) alkalinity total
- (b) calcium
- (c) pH value
- (d) sodium
- (e) iron
- (f) manganese
- (g) hardness
- (h) specific conductance
- (i) sulphate
- (j) chloride
- (k) magnesium

(2) Samples required in (1) must be collected and analyzed at the frequency for regulated inorganic chemicals, other than nitrate and nitrite, as required in (3). The department may waive the sampling and analysis requirement for any or all of these chemicals if the results of at least one sample demonstrate that further sampling is unnecessary.

(3) The board adopts and incorporates by reference the following monitoring and analytical requirements:

(a) 40 CFR 141.23, which sets forth sampling and analytical method requirements for inorganic chemicals except that 141.23(i) is replaced with the following:

"(i) Compliance with 40 CFR 141.11 or 141.62(b) (as appropriate) shall be determined based on the analytical result(s) obtained at each sampling point.

(1) For systems monitoring more than once per year, compliance with the maximum contaminant levels, as described in 40 CFR 141.11 or 141.62(b), for fluoride, asbestos, barium, cadmium, chromium, mercury, selenium, antimony, beryllium, cyanide, nickel, thallium, or arsenic is determined by a running annual average at any sampling point.

(2) For systems monitoring annually or less frequently for fluoride, asbestos, barium, cadmium, chromium, mercury, selenium, antimony, beryllium, cyanide, nickel, thallium, or arsenic whose sample result(s) exceed(s) a maximum contaminant level, as described in 40 CFR 141.11 or 141.62(b), must begin quarterly sampling. The system will not be considered in violation of the maximum contaminant level until it has completed one year of quarterly sampling.

(3) If any sample result will cause the running annual average to exceed the maximum contaminant level at the sampling point, the system will be considered out of compliance with the maximum contaminant level immediately.

(4) If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected.

(5) If any sample result is less than the detection limit, zero will be used to calculate the annual average.

(6) Compliance with the maximum contaminant levels for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate and/or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with paragraph (f)(2) of this section, and compliance shall be determined based on the average of the initial and confirmation samples.

(7) Arsenic sampling results will be reported to the nearest 0.001mg/L."

(b) 40 CFR 141.24, which sets forth sampling and analytical method requirements for organic chemicals other than total trihalomethanes;

(c) 40 CFR 141.25, which sets forth analytical method requirements for radioactive contaminants;

(d) 40 CFR 141.26, which sets forth sampling requirements for radioactive contaminants in community water systems;

(e) CFR 141.27, which sets forth requirements for alternate analytical methods;

(f) 40 CFR 141.28, which sets forth requirements for the use of certified laboratories by public water system suppliers and by the department, except that, for the purpose of this subchapter, the phrase "certified laboratory" means "approved laboratory" as defined in ARM 17.38.202. References to 40 CFR 141.21 in 40 CFR 141.28 also refer to ARM 17.38.215;

(g) 40 CFR 141.29, which sets forth sampling requirements for consecutive public water systems;

(h) 40 CFR 141.40, which sets forth special sampling and analytical method requirements for unregulated inorganic and organic contaminants;

(i) 40 CFR 141.41, which sets forth special monitoring and analytical method requirements for sodium;

(j) 40 CFR 141.42, which sets forth special requirements for water system materials subject to corrosion;

(k) 40 CFR 141.80, which sets forth general requirements for the control of lead and copper;

- (l) 40 CFR 141.86, which sets forth sampling and analytical method requirements for lead and copper;
- (m) 40 CFR 141.87, which sets forth sampling requirements for water quality parameters;
- (n) 40 CFR 141.88, which sets forth sampling requirements for lead and copper in source water;
- (o) 40 CFR 141.89, which sets forth analytical method requirements for lead, copper, and water quality parameters;
- (p) 40 CFR 141.130, which sets forth general requirements for control of disinfectants and disinfection byproducts;
- (q) 40 CFR 141.131, which sets forth analytical method requirements for disinfectants and disinfection byproducts;
- (r) 40 CFR 141.132, which sets forth sampling requirements for disinfectants and disinfection byproducts; and
- (s) 40 CFR 141.133, which sets forth compliance requirements for disinfectants and disinfection byproducts.

(4) A supplier shall sample every new source of water supply, both surface and ground, for nitrate and nitrite analyses to demonstrate compliance with this subchapter before the water is served to the public. Unless otherwise directed by the department, a supplier also shall sample all new sources of water supply for analysis of the parameters identified in (3) before the end of the calendar quarter in which the source is connected to a public water supply. A supplier shall also sample a new source serving a transient non-community water system for either total dissolved solids (TDS) or specific conductance.

(5) Further sampling or corrective action may be required by the department if the results of the analyses do not demonstrate conformance with applicable maximum contaminant levels or actions levels. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2010 MAR p. 1798, Eff. 8/13/10.)

17.38.217 SAMPLING AND REPORTING RESPONSIBILITY (1) The supplier of a public water supply system is responsible for the proper collection of samples required in this subchapter for microbiological, inorganic, organic, and radiological analysis and submission of the samples to an approved laboratory or to the state laboratory at the times designated by the department. The supplier is also responsible for performing the control tests required in this subchapter. Department personnel, where their programs allow, may assist in the collection, submission and analysis of the samples. Suppliers are also responsible for reporting the results of these samples and control tests in accordance with the requirements of this subchapter. A supplier shall use reporting formats specified by the department for any reporting required in this subchapter. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.218 VERIFICATION SAMPLES (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.219 SPECIAL SAMPLES (1) Under special conditions, additional samples may be required by the department. Such samples may be to determine adequacy of disinfection following line installation, replacement, or repair. Samples may also be required for determination of adequacy of source, storage, treatment or distribution of water to the public. The department may use these samples to determine compliance with MCLs, action levels, and treatment technique requirements, as set forth in this subchapter. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499.)

Rules 17.38.220 through 17.38.224 reserved

17.38.225 CONTROL TESTS (1) To determine compliance with treatment requirements of this subchapter, to judge variations in water quality, to identify objectionable water characteristics, and to detect the presence of foreign substances which may adversely affect the quality of the water, control tests must be performed, recorded, and reported by water suppliers in accordance with procedures and reporting formats approved by the department.

(2) Disinfectant residual tests must be conducted daily by:

(a) surface water systems and consecutive systems to a surface water system in accordance with the requirements in 40 CFR 141.72 and with the other requirements in this subchapter for disinfectant residual monitoring for surface water supplies. At least two disinfectant residual tests must be conducted daily, one at each entry point to the distribution system and one in the distribution system;

(b) ground water systems in accordance with 40 CFR Par 141, subpart S. Disinfectant residual tests must be conducted daily at each entry point to the distribution system to prove compliance with the 4-log virus inactivation or removal requirement; and

(c) ground water systems required by the department under ARM 17.38.229 to maintain a residual, and by consecutive systems connected to those systems, at each entry point to the distribution system and, if required to maintain a residual in the distribution system, one in the distribution system. For consecutive systems, the entry point is the point at which the purchased water enters the distribution system of the consecutive system. The department may waive, on a case-by-case basis, the requirement for:

(i) entry point sampling; and

(ii) entry point sampling and distribution system sampling, if the consecutive system produces treated water for vending or bottling where the treatment is designed to produce a product free of chlorine.

(3) A test for chlorine residual in the distribution system must be made at selected points consistent with the microbiological sample siting plan specified in 40 CFR 141.21 and changed regularly so as to cover the system completely at least each week.

(4) Only the following analytical methods or other methods approved by the department may be used to demonstrate compliance with the requirements of this rule:

(a) Turbidity measurements must be taken as set forth in 40 CFR 141.74. Secondary turbidity standards may be used for daily calibration of turbidimeters if those standards are calibrated against an EPA-approved primary at least quarterly. Documentation of the date, analyst performing the procedure, procedures used, and results of the quarterly calibration checks must be maintained by the water system and reported to the department within ten days following the end of the month during which this procedure took place.

(b) Residual disinfectant concentrations must be measured as set forth in 40 CFR 141.74. Residual disinfectant concentrations for free chlorine and combined chlorine may also be measured by using DPD colorimetric test kits if approved by the department.

(c) Temperature measurements must be taken as set forth in 40 CFR 141.23(k)(1).

(d) Measurements for pH must be taken as set forth in 40 CFR 141.23(k)(1).

(5) Measurements for pH, temperature, turbidity, and residual disinfectant concentrations for community and nontransient noncommunity water supply systems must be conducted by a person certified under the provisions of Title 37, chapter 42, MCA, or by a person who has been properly trained to conduct these measurements by the operator in responsible charge or by the department. Bacteriological samples for community and nontransient noncommunity water supply systems must be collected by a person approved by the department or certified under the provisions of Title 37, chapter 42, MCA. Measurements for total coliform bacteria, fecal coliform bacteria, and heterotrophic plate count must be conducted by an approved laboratory.

(6) The board adopts and incorporates by reference the following:

(a) 40 CFR 141.22, which sets forth turbidity sampling and analytical requirements, except for the second and third sentences in 141.22(a).

(b) 40 CFR 141.74, which sets forth analytical and monitoring requirements, except for the following changes:

(i) "1 NTU" means 1.0 nephelometric turbidity unit for the purposes of this subchapter;

(ii) The first sentence in 40 CFR 141.74(b)(4)(i)(B)(ii) is replaced with the following: "If the system uses more than one point of disinfectant application before or at the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow, except that contact time achieved prior to filtration is not included in this calculation.";

(iii) The following phrase is inserted after the phrase "system's filtered water" in the first sentence in 40 CFR 141.74(c)(1): "and individual filter effluent";

(iv) The last sentence in 40 CFR 141.74(c)(1) is not adopted; and

(v) 40 CFR 141.74(b)(5) and 141.74(c)(2) are modified to read: "The residual disinfectant concentration of the water entering the distribution system must be monitored continuously, and the lowest value must be recorded each day, except that if there is a failure in the continuous monitoring equipment, grab sampling every four hours may be conducted in lieu of continuous monitoring, but for no more than five working days following the failure of the equipment."

- (c) 40 CFR 141.172, which sets forth disinfection profiling and benchmarking requirements;
 - (d) 40 CFR 141.174, which sets forth filtration sampling requirements;
 - (e) 40 CFR 141.530, 141.531, 141.532, 141.533, 141.534, 141.535, 141.536, 141.540, 141.541, 141.542, 141.543 and 141.544, which set forth requirements for disinfection profiling and benchmarking for public water suppliers using surface water or GWUDISW and that serve fewer than 10,000 people;
 - (f) 40 CFR 141.553, which describes turbidity monitoring provisions for systems that utilize lime softening;
 - (g) 40 CFR 141.560, which describes individual filter monitoring requirements for public water suppliers that utilize direct or conventional filtration treatment;
 - (h) 40 CFR 141.561, which describes monitoring requirements for public water suppliers when continuous turbidity monitoring equipment fails;
 - (i) 40 CFR 141.562, which describes turbidity monitoring requirements for public water suppliers that utilize two or fewer filters; and
 - (j) Title 37, chapter 42, MCA, which sets forth requirements for water treatment plant operators.
- (7) Copies of Title 37, chapter 42, MCA, may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.226 CONTROL TESTS--SURFACE SUPPLIES (REPEALED)

(History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 2035, Eff. 5/1/98; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

PUBLIC WATER AND SEWAGE
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17.38.227

17.38.227 SPECIAL CONTROL TESTS A special test may be required for a public water supply system exceeding the following amounts:

<u>Constituent</u>	<u>Maximum Amount</u>
(1) Iron	0.30 mg/l
(2) Manganese.....	0.05 mg/l
(3) Chloride	250.00 mg/l
(4) Sulfate	250.00 mg/l
(5) Total dissolved solids	500.00 mg/l

(History: 75-6-103, MCA; IMP, Sec. 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

Rule 17.38.228 reserved

17.38.229 MICROBIAL TREATMENT (1) Full-time disinfection with chlorine, chlorine dioxide, chloramines, or a disinfectant that maintains a residual is mandatory where the source of water is from lakes, reservoirs, or streams, or ground water sources under the direct influence of surface water, or where the water may be exposed to a potential source of contamination including, but not limited to:

- (a) losses of pressure within the system that could result in backflow or infiltration conditions;
- (b) substandard distribution, pumping, or storage facilities; or
- (c) other circumstances where the department determines that the history and nature of contamination indicates a residual is required for a safe water.

(2) Full-time microbial treatment that provides adequate inactivation or removal of harmful pathogens is mandatory whenever the water may be exposed to a potential source of contamination through:

- (a) treatment processes, as determined by the department; or
- (b) unprotected or poorly protected ground water sources.

(3) Methods of full-time microbial treatment must be reviewed and approved by the department prior to the installation or use of any form of treatment.

(4) When the department determines a residual is required in a ground water system, the residual disinfectant concentration measured as free chlorine, total chlorine, combined chlorine, chlorine dioxide, or other department approved disinfectant(s) must not be less than 0.2mg/l using the DPD method or 0.1mg/l using the amperometric titration method. A heterotrophic bacteria concentration in water in the distribution system less than or equal to 500 per milliliter, measured as heterotrophic plate count (HPC), is an acceptable substitute for disinfectant residual for purposes of determining compliance with this rule. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2006 MAR p. 540, Eff. 2/24/06; AMD, 2009 MAR p. 1794, Eff. 10/16/09.)

17.38.230 FLUORIDATION (1) Where fluoridation is practiced, laboratory analysis must be made at least once daily of the water after fluoridation to assure an average fluoride content of not over 1.5 ppm in the finished water, using a control range from 0.9 ppm lower limits to 1.5 ppm upper limit.

(2) Proper records of the analyses must be kept on file and a copy forwarded to the department monthly. One sample of treated water must be submitted monthly to the department for analysis. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

17.38.231 SANITARY SURVEYS (1) Public water supply systems must undergo an initial sanitary survey by June 29, 1994, for community systems and nontransient noncommunity systems, and by June 29, 1999, for transient noncommunity water systems. Thereafter, nontransient noncommunity and transient noncommunity water systems must undergo another sanitary survey at least once every five years, and community water supply systems must undergo another sanitary survey at least once every three years except that the department may define a process by which a community system may be determined to be an outstanding performer and have its sanitary survey schedule reduced to no less frequently than every five years. The department must review the results of each sanitary survey to determine whether the existing monitoring frequency is adequate and what additional measures, if any, the system needs to undertake to improve drinking water quality.

(2) Sanitary surveys must be performed by the department or an agent approved by the department. The supplier is responsible for ensuring the survey takes place. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2009 MAR p. 1794, Eff. 10/16/09.)

Rules 17.38.232 and 17.38.233 reserved

17.38.234 TESTING AND SAMPLING RECORDS AND REPORTING REQUIREMENTS (1) To ensure the safety of water delivered to the consumers, it is essential that there be a record of laboratory examinations of the water sufficient to show it is safe with respect to both bacteriological quality and other maximum contaminant levels. Suppliers of water shall maintain accurate and complete testing records at all water plants and for all water systems. Complete records must be made available to the department upon request.

(2) A supplier shall keep a daily record of the samples and control tests required in ARM 17.38.225, 17.38.227, 17.38.230, and 17.38.234(4). The records must be kept on report forms approved by the department and must be prepared in duplicate. Unless indicated otherwise in these rules, the original records must be forwarded to the department by the tenth day of the month following testing.

(3) Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

- (a) the date, place and time of sampling;
- (b) the name of the person who collected the sample;
- (c) identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample, or other special purpose sample;
- (d) date of analysis;
- (e) laboratory and person responsible for performing analysis;
- (f) the analytical technique/method used, analysis number; and
- (g) the results of the analysis.

(4) A supplier of a public water supply system that has exceeded the microbiological contaminant MCLs specified in ARM 17.38.207 shall report the violation to the department by the end of the next business day after learning of the violation.

(5) A supplier utilizing a water treatment plant employing coagulation, settling, softening, or filtration shall keep a daily record of the operations performed in the treatment process together with measured flows, phenolphthalein (p) alkalinity, total alkalinity, hardness (where softening is utilized), chemical doses, observations, and costs related to the operation of the plant.

(6) The board adopts and incorporates by reference the following:

- (a) 40 CFR 141.31, which sets forth general reporting requirements for public water supplies;

(b) 40 CFR 141.33, which sets forth general recordkeeping requirements for public water supplies;

(c) 40 CFR 141.35, which sets forth reporting requirements for unregulated chemicals;

(d) 40 CFR 141.75, which sets forth reporting requirements for public water supplies that use surface water or GWUDISW, except that, for the purposes of this subchapter "5 NTU" means 5.0 nephelometric turbidity units;

(e) 40 CFR 141.76(b) and (d), which set forth reporting and recordkeeping requirements for the recycle provisions;

(f) 40 CFR 141.90 and 141.91, which set forth reporting and recordkeeping requirements for lead and copper;

(g) 40 CFR 141.134, which, in addition to 40 CFR 141.31, sets forth reporting requirements for disinfection byproducts;

(h) 40 CFR 141.175, which, in addition to 40 CFR 141.75, sets forth reporting requirements for public water supplies that serve 10,000 or more people that use surface water or GWUDISW;

(i) 40 CFR 141.563, which sets forth reporting and follow-up actions that public water suppliers that utilize surface water or GWUDISW, serve fewer than 10,000 people, and are required to filter must take when certain individual filter turbidity limits are exceeded;

(j) 40 CFR 141.564, which sets forth reporting and follow-up actions that public water suppliers that utilize surface water or GWUDISW, serve fewer than 10,000 people, are required to filter, and utilize lime softening must take when certain individual filter turbidity limits are exceeded;

(k) 40 CFR 141.570, which, in addition to 40 CFR 141.75, sets forth general reporting requirements for public water suppliers that utilize surface water or GWUDISW and serve fewer than 10,000 people; and

(l) 40 CFR 141.571, which, in addition to 40 CFR 141.75, sets forth general recordkeeping requirements for public water suppliers that utilize surface water or GWUDISW and that serve fewer than 10,000 people.

(7) Upon request by the department, a public water supplier shall ensure that recommendations of a certified professional engineer required under 40 CFR 141.175 or 40 CFR 141.563 are implemented through consultation and technical assistance provided by the department or by a third party approved by the department.

(8) Upon discovering that a waterborne disease outbreak potentially attributable to that water system has occurred, a supplier shall report that occurrence to the department as soon as possible, but no later than by the end of the next business day.

(9) Upon request by the department, suppliers shall timely submit to the department copies of any records required to be maintained by these rules.

(History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2010 MAR p. 1798, Eff. 8/13/10.)

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17.38.235

17.38.235 OPERATING RECORDS (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

Rules 17.38.236 through 17.38.238 reserved

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17.38.239 PUBLIC NOTIFICATION FOR COMMUNITY AND NONCOMMUNITY SUPPLIES (1) The board adopts and incorporates by reference 40 CFR Part 141, subpart Q, which sets forth public notification requirements for drinking water violations.

(2) The board adopts and incorporates by reference 40 CFR Part 141, Subpart O, which sets forth requirements for consumer confidence reports.

(3) The board adopts and incorporates by reference 40 CFR Part 141.85, which sets forth the public education and supplemental monitoring requirements for exceedances of the lead action level. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/8/00; AMD, 2003 MAR p. 1279, Eff. 6/27/03; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2010 MAR p. 1798, Eff. 8/13/10.)

Rules 17.38.240 through 17.38.243 reserved

17.38.244 VARIANCES AND EXEMPTIONS (1) The board hereby adopts and incorporates by reference the following:

(a) 40 CFR 141.4(a), which sets forth general requirements for variances and exemptions;

(b) 40 CFR Part 142, Subpart E, which sets forth requirements for variances, except that the department has the same authority as the EPA administrator has in a state that does not have primary enforcement responsibility for enforcement of the SDWA;

(c) 40 CFR Part 142, Subpart F, which sets forth requirements for the issuance of exemptions, except that the department has the same authority as the EPA administrator has in a state that does not have primary enforcement responsibility for enforcement of the SDWA;

(d) 40 CFR Part 142, Subpart G, which sets forth the identification of best technologies, treatment techniques, or other means generally available; and

(e) CFR Part 142, Subpart K, which sets forth the requirements for variances for small public water supply systems. (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA, NEW, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 2000 MAR p. 3400, Eff. 12/08/00.)

Rules 17.38.245 through 17.38.247 reserved

17.38.248 SERVICE CONNECTION FEES (1) A public water supplier shall pay to the department an annual fee for each state fiscal year. The annual fee must be postmarked or delivered to the department no later than March 1 of each year.

(2) For purposes of this rule, an active service connection is one that provides water service for human consumption to a customer that is billed directly or otherwise held directly responsible by a public water supply system supplier for payment for that service. Activities that do not qualify as human consumption include water used exclusively by livestock or for fire protection.

(3) The annual fee does not apply to a service connection if:

(a) the service connection has been turned off for the entire fiscal year prior to any March 1 fee payment deadline; and

(b) the public water supply system has not required payment for service for that time period.

(4) Each community public water supply system supplier shall determine the total number of active service connections for each fiscal year based on an assessment that occurs between July 1 and August 1 of that fiscal year.

(5) The total annual service connection fee is determined by multiplying the number of active service connections by the appropriate annual fee per service connection.

(6) Regardless of the number of service connections, the minimum annual fee for any community public water system is \$100.

(7) Fees for community public water supply systems are determined as follows:

(a) The annual fee per active service connection is \$2.25 for fiscal years 1992 and 1993.

(b) Beginning fiscal year 1994, the annual fee per active service connection is \$2.00.

(8) Fees for noncommunity public water supply systems are determined as follows:

(a) The annual fee for a nontransient noncommunity public water supply system is \$100.

(b) The annual fee for any other noncommunity public water supply system is \$50.

(9) Failure to pay the annual fee, including any outstanding past-due balance, by March 1 of the fiscal year for which the fee is assessed subjects suppliers to an additional charge to be calculated by multiplying the total outstanding balance by 10%.

(10) The board shall review the public water supply program, including the service connection fee amounts imposed by this rule, on or before December 26 of each year. (History: 75-6-103, MCA; IMP, 75-6-104, 75-6-108, MCA; NEW, 1991 MAR p. 2617, Eff. 12/27/91; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.249 CERTIFIED OPERATOR AND DESIGNATED CONTACT

PERSON (1) The owner of a community or nontransient noncommunity public water supply or wastewater treatment system shall retain a certified operator, as defined in Title 37, chapter 42, MCA, to perform monitoring and reporting in accordance with the requirements of this subchapter. The certified operator must be in responsible charge of the public water supply or wastewater treatment system in accordance with Title 37, chapter 42, MCA.

(2) The owner of a public water supply or wastewater treatment system shall provide, no later than 30 days after the issuance of a written request by the department, the name, address, and telephone number of a designated person who shall be responsible for contact and communications with the department in matters relating to system alteration, extension and construction, monitoring and sampling, maintenance, operation, record keeping, notification, and reporting.

(3) The owner of a public water supply or wastewater treatment system shall report any change in certified operator or designated person to the department within 30 days after the change.

(4) Any communication or notice made by the department to a person designated under (2) is deemed to be adequate communication or notice to the owner of the public water supply or wastewater treatment system.

(5) The department hereby adopts and incorporates by reference Title 37, chapter 42, MCA, which establishes requirements for operators of public water supply systems and wastewater treatment plants. A copy may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1977 MAR p. 1187, Eff. 12/24/77; AMD, 1982 MAR p. 594, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1999 MAR p. 1895, Eff. 9/10/99; AMD, 2003 MAR p. 1279, Eff. 6/27/03.)

Rules 17.38.250 through 17.38.254 reserved

17.38.255 VARIANCE "A" (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; TRANS, from DHES, 1996 MAR p. 1499; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.256 VARIANCE "B" (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.257 EXEMPTIONS (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; AMD, 1991 MAR p. 1492, Eff. 8/16/91; TRANS, from DHES, 1996 MAR p. 1499; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.258 COMPLIANCE PLAN--GENERAL (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.259 COMPLIANCE PLAN--VARIANCES (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.260 COMPLIANCE PLAN--EXEMPTIONS (REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; AMD, 1991 MAR p. 2617, Eff. 12/27/91; TRANS, from DHES, 1996 MAR p. 1499; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.261 APPLICATION FOR VARIANCE OR EXEMPTION (1) A supplier of water may apply for a variance or exemption by completing an application form provided by the department. The department will not commence review of an application for a variance or exemption until the application form has been completed and all information requested by the department for review of the application has been submitted. (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

17.38.262 GRANT OF A VARIANCE OR EXEMPTION (1) At a public hearing held pursuant to ARM 17.38.244, a presiding officer shall accept information, comments and data from persons relevant to the terms proposed by the department for a variance or exemption and its accompanying compliance plan. The hearing is not subject to the contested case procedure of the Montana Administrative Procedure Act, and cross-examination is not allowed. The presiding officer has the discretion to limit repetitive testimony. (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.263 DENIAL OF A VARIANCE OR EXEMPTION (1) If the department decides to deny an application for a variance or exemption, the department shall notify the applicant of its decision in writing. The notice must include a statement of reasons for the denial. (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

17.38.264 APPEAL OF A VARIANCE OR EXEMPTION TO THE BOARD

(1) When the department decides to grant, deny, modify or revoke a variance or exemption, a person aggrieved by the department's decision may appeal the department's decision to the board if the person aggrieved files a petition under oath with the board within 15 days after the department renders its decision. The petition of appeal must contain the following information:

(a) the name and address of the petitioner;
(b) the reasons why an appeal is sought; and
(c) if the appeal is from the grant or modification of a variance, exemption or compliance plan, the provisions of the variance, exemption or compliance plan which the petitioner wants reviewed by the board.

(2) For the purposes of this rule, "a person aggrieved by the department's decision" means the applicant for a variance or exemption, or a person who is served by the public water supply system which was the subject of the department's decision. (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

17.38.265 EFFECTIVE DATE OF VARIANCE OR EXEMPTION

(1) A variance or exemption becomes effective 15 days after the department renders its decision if no petition of appeal has been filed with the board within those 15 days. The filing of a petition of appeal as required by ARM 17.38.264 postpones the effective date of the variance or exemption until the board has issued a final decision on the appeal. (History: 75-6-103, MCA; IMP, 75-6-103, 75-6-107, MCA; NEW, 1982 MAR p. 595, Eff. 3/26/82; TRANS, from DHES, 1996 MAR p. 1499.)

Rules 17.38.266 through 17.38.269 reserved

17.38.270 ADOPTION AND INCORPORATION BY REFERENCE

(REPEALED) (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1991 MAR p. 1492, Eff. 8/16/91; AMD, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; REP, 2000 MAR p. 3400, Eff. 12/8/00.)

17.38.271 DEPARTMENT RECORDKEEPING (1) The department shall maintain records regarding its public water supply program and make reports to the U.S. Environmental Protection Agency concerning its program in a manner that is consistent with requirements set forth in 40 CFR 142.14 and 142.15.

(2) The department hereby adopts and incorporates by reference 40 CFR 142.14 and 142.15, which describe recordkeeping and reporting requirements for state drinking water programs. Copies may be obtained by contacting the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901, (406) 444-2406. (History: 75-6-103, MCA; IMP, 75-6-103, MCA; NEW, 1994 MAR p. 2131, Eff. 8/12/94; TRANS, from DHES, 1996 MAR p. 1499.)

