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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Gary Mendivil, Department of Environmental Conservation

**FROM:** Scott Meriwether, Office of the Lieutenant Governor - 465.4081 

**DATE:** January 12, 2017

**RE:** Filed Permanent Regulations: Department of Environmental Conservation

Department of Environmental Conservation regulations re: drinking water, update of adopted-by-reference material, repeal of provisions regarding former "Class C" public water systems, and implementing the United States Environmental Protection Agency revised total coliform rule (RTCR) under 40 C.F.R. 141.851 - 141.861 (18 AAC 80.010(a); 18 AAC 80.015(e)(1); 18 AAC 80.020(a),(c)(1); 18 AAC 80.035(b); 18 AAC 80.050; 18 AAC 80.055; 18 AAC 80.200(a),(h),(i),(j); 18 AAC 80.205(c)(2); 18 AAC 80.300(b)(4); 18 AAC 80.305(f); 18 AAC 80.310(c)(2),(f); 18 AAC 80.355(b); 18 AAC 80.400 - 18 AAC 80.445; 18 AAC 80.655(a)(1); 18 AAC 80.1103(5); 18 AAC 80.1220(b); 18 AAC 80.1910(b)(4); 18 AAC 80.1990(a))

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Attorney General File:	JU2016200194
Regulation Filed:	January 12, 2017
Effective Date:	February 11, 2017
Print:	221, April 2017

cc with enclosures: Linda Miller, Department of Law  
Dianne Blumer, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

The attached 58 pages of regulations, dealing with the adoption of the Revised Total Coliform Rule, the repeal of Class C Public Water System regulatory requirements, the amendment of Emergency Preparedness regulatory requirements, and updating the Code of Federal Regulations citations in 18 AAC 80, are adopted and certified to be a correct copy of the regulation changes that the Department of Environmental Conservation adopts under the authority of AS 44.46.020, AS 44.46.025, AS 46.03.010, AS 46.03.020, AS 46.03.050, AS 46.03.710, AS 46.03.720, AS 46.03.761, and AS 46.03.850 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Environmental Conservation paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: January 5, 2017  
Anchorage, Alaska

  
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Larry Hartig, Commissioner

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on January 12, 2017, at 11:27A m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
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Byron Mallott, Lieutenant Governor

Effective: February 11, 2017

Register: 22, April 2017

18 AAC 80.010(a) is repealed and readopted to read:

**18 AAC 80.010. Requirements adopted by reference and other reference materials.**

(a) The following federal requirements are adopted by reference:

(1) 21 C.F.R. Part 110 (current good manufacturing practice in manufacturing, packing, or holding human food), revised as of April 1, 2015;

(2) 21 C.F.R. Part 129 (processing and bottling of bottled drinking water), revised as of April 1, 2015;

(3) 21 C.F.R. 165.110 (bottled water), revised as of April 1, 2015;

(4) 40 C.F.R. Part 136, Appendix B (definition and procedure for the determination of the method detection limit, Revision 1.11), revised as of July 1, 2015;

(5) the following provisions from 40 C.F.R. 141.1 - 141.6 (Subpart A - general), revised as of July 1, 2015:

(A) the definitions of "Act," "action level," "bag filters," "bank filtration," "cartridge filters," "clean compliance history," "comprehensive performance evaluation (CPE)," "combined distribution system," "consecutive system," "corrosion inhibitor," "disinfection profile," "dose equivalent," "dual sample sets," "effective corrosion inhibitor residual," "enhanced coagulation," "enhanced softening," "filter profile," "finished water," "first draw sample," "flowing stream," "GAC10," "GAC20," "ground water under the direct influence of surface water (GWUDI)," "haloacetic acids (five) (HAA5)," "halogen," "initial compliance period," "lake/reservoir," "large water system," "lead service line," "*Legionella*," "Level 1 assessment," "Level 2 assessment," "locational running annual average," "man-made beta particle and photon emitters," "medium-size water system," "membrane filtration," "optimal corrosion control treatment," "picocurie,"

"plant intake," "point of disinfectant application," "presedimentation," "rem," "sanitary defect," "seasonal system," "service line sample," "single family structure," "small water system," "standard sample," "Subpart H systems," "supplier of water," "SUVA," "system with a single service connection," "total organic carbon (TOC)," "total trihalomethanes (TTHM)," "trihalomethane (THM)," "two-stage lime softening," "uncovered finished water storage facility," and "wholesale system," as set out in 40 C.F.R. 141.2

(definitions);

(B) 40 C.F.R. 141.3 (coverage);

(C) 40 C.F.R. 141.4(a) (variances and exemptions), including the Note to paragraph (a);

(6) the following provisions from 40 C.F.R. 141.21 – 141.29 (Subpart C - monitoring and analytical requirements), revised as of July 1, 2015:

(A) 40 C.F.R. 141.21 (coliform sampling);

(B) 40 C.F.R. 141.22(b) (turbidity sampling and analytical requirements);

(C) 40 C.F.R. 141.23 (inorganic chemical sampling and analytical requirements);

(D) 40 C.F.R. 141.24 (organic chemicals, sampling and analytical requirements);

(E) 40 C.F.R. 141.25 (analytical methods for radioactivity);

(F) 40 C.F.R. 141.26 (monitoring frequency and compliance requirements for radionuclides in community water systems);

(G) 40 C.F.R. 141.27 (alternative analytical techniques);

(H) 40 C.F.R. 141.28 (certified laboratories);



(I) 40 C.F.R. 141.29 (monitoring of consecutive public water systems);

(J) Appendix A to 40 C.F.R. Part 141, Subpart C (alternative testing methods approved for analysis under the Safe Drinking Water Act);

(7) the following provisions from 40 C.F.R. 141.31 - 141.35 (Subpart D - reporting and recordkeeping), revised as of July 1, 2015:

(A) 40 C.F.R. 141.31(d) and (e) (reporting requirements);

(B) 40 C.F.R. 141.33 (record maintenance);

(C) 40 C.F.R. 141.35 (reporting for unregulated contaminant monitoring results), except that the term "you" means the owner or operator;

(8) the following provisions from 40 C.F.R. 141.40 - 141.43 (Subpart E - special regulations, including monitoring regulations and prohibition on lead use), revised as of July 1, 2015:

(A) 40 C.F.R. 141.40 (monitoring requirements for unregulated contaminants), except that the term "you" means the owner or operator;

(B) 40 C.F.R. 141.41 (special monitoring for sodium);

(C) 40 C.F.R. 141.42 (special monitoring for corrosivity characteristics);

(9) the following provisions from 40 C.F.R. 141.50 - 141.55 (Subpart F - maximum contaminant level goals and maximum residual disinfectant level goals), revised as of July 1, 2015:

(A) 40 C.F.R. 141.51(b) (maximum contaminant level goals for inorganic contaminants);

(B) 40 C.F.R. 141.55 (maximum contaminant level goals for radionuclides);

(10) the following provisions from 40 C.F.R. 141.60 - 141.66 (Subpart G - national primary drinking water regulations: maximum contaminant levels and maximum residual disinfectant levels), revised as of July 1, 2015:

(A) 40 C.F.R. 141.61 (maximum contaminant levels for organic contaminants);

(B) 40 C.F.R. 141.62 (maximum contaminant levels for inorganic contaminants);

(C) 40 C.F.R. 141.63 (maximum contaminant levels (MCLs) for microbiological contaminants);

(D) 40 C.F.R. 141.64 (maximum contaminant levels for disinfection byproducts);

(E) 40 C.F.R. 141.65 (maximum residual disinfectant levels);

(F) 40 C.F.R. 141.66 (maximum contaminant levels for radionuclides);

(11) the following provisions from 40 C.F.R. 141.70 – 141.76 (Subpart H - filtration and disinfection), revised as of July 1, 2015:

(A) 40 C.F.R. 141.70 (general requirements);

(B) 40 C.F.R. 141.71 (criteria for avoiding filtration);

(C) 40 C.F.R. 141.72 (disinfection);

(D) 40 C.F.R. 141.73 (filtration), except that in 40 C.F.R. 141.73(a)(4), the phrase "January 1, 2005" is revised to read "August 19, 2006";

(E) 40 C.F.R. 141.74 (analytical and monitoring requirements), except that in 40 C.F. R. 141.74(b)(3), the phrase "must be determined based on the CT<sub>99.9</sub> values in tables 1.1 - 1.6, 2.1, and 3.1 of this section, as appropriate" is revised to read

"may be determined based either on the CT<sub>99.9</sub> values in tables 1.1 - 1.6, 2.1, and 3.1 of this section, as appropriate, or on the formula for calculating CT values set out in 18 AAC 80.655(b)";

(F) 40 C.F.R. 141.75 (reporting and recordkeeping requirements);

(G) 40 C.F.R. 141.76 (recycle provisions);

(12) the following provisions from 40 C.F.R. 141.80 - 141.91 (Subpart I - control of lead and copper), revised as of July 1, 2015:

(A) 40 C.F.R. 141.80 (general requirements);

(B) 40 C.F.R. 141.81 (applicability of corrosion control treatment steps to small, medium-size and large water systems);

(C) 40 C.F.R. 141.82 (description of corrosion control treatment requirements);

(D) 40 C.F.R. 141.83 (source water treatment requirements);

(E) 40 C.F.R. 141.84 (lead service line replacement requirements);

(F) 40 C.F.R. 141.85 (public education and supplemental monitoring requirements);

(G) 40 C.F.R. 141.86 (monitoring requirements for lead and copper in tap water);

(H) 40 C.F.R. 141.87 (monitoring requirements for water quality parameters);

(I) 40 C.F.R. 141.88 (monitoring requirements for lead and copper in source water);

(J) 40 C.F.R. 141.89 (analytical methods);

(K) 40 C.F.R. 141.90 (reporting requirements);

(L) 40 C.F.R. 141.91 (recordkeeping requirements);

(13) the following provisions from 40 C.F.R. 141.130 - 141.135 (Subpart L - disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors), revised as of July 1, 2015:

(A) 40 C.F.R. 141.130 (general requirements);

(B) 40 C.F.R. 141.131 (analytical requirements);

(C) 40 C.F.R. 141.132 (monitoring requirements);

(D) 40 C.F.R. 141.133 (compliance requirements);

(E) 40 C.F.R. 141.134 (reporting and recordkeeping requirements);

(F) 40 C.F.R. 141.135 (treatment technique for control of disinfection byproduct (DBP) precursors);

(14) the following provisions from 40 C.F.R. 141.151 - 141.155 (Subpart O - consumer confidence reports), revised as of July 1, 2015:

(A) 40 C.F.R. 141.151 (purpose and applicability of this subpart);

(B) 40 C.F.R. 141.152(b) - (d) (effective dates);

(C) 40 C.F.R. 141.153 (content of the reports);

(D) 40 C.F.R. 141.154 (required additional health information);

(E) 40 C.F.R. 141.155 (report delivery and recordkeeping);

(F) Appendix A to 40 C.F.R. Part 141, Subpart O (regulated contaminants);

(15) the following provisions from 40 C.F.R. 141.170 - 141.175 (Subpart P – enhanced filtration and disinfection - systems serving 10,000 or more people), revised as of July 1, 2015:

- (A) 40 C.F.R. 141.170 (general requirements);
- (B) 40 C.F.R. 141.171 (criteria for avoiding filtration);
- (C) 40 C.F.R. 141.172 (disinfection profiling and benchmarking);
- (D) 40 C.F.R. 141.173 (filtration);
- (E) 40 C.F.R. 141.174 (filtration sampling requirements);
- (F) 40 C.F.R. 141.175 (reporting and recordkeeping requirements);

(16) the following provisions from 40 C.F.R. 141.201 - 141.211 (Subpart Q - public notification of drinking water violations), revised as of July 1, 2015:

- (A) 40 C.F.R. 141.201 (general public notification requirements);
- (B) 40 C.F.R. 141.202 (Tier 1 public notice - form, manner, and frequency of notice);
- (C) 40 C.F.R. 141.203 (Tier 2 public notice - form, manner, and frequency of notice);
- (D) 40 C.F.R. 141.204 (Tier 3 public notice - form, manner, and frequency of notice);
- (E) 40 C.F.R. 141.205 (content of the public notice);
- (F) 40 C.F.R. 141.206 (notice to new billing units or new customers);
- (G) 40 C.F.R. 141.207 (special notice of the availability of unregulated contaminant monitoring results);



(H) 40 C.F.R. 141.208 (special notice for exceedance of the SMCL for fluoride);

(I) 40 C.F.R. 141.210 (notice by primacy agency on behalf of the public water system);

(J) 40 C.F.R. 141.211 (special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification of mean *Cryptosporidium* level);

(K) Appendix A to 40 C.F.R. Part 141, Subpart Q (NPDWR violations and other situations requiring public notice);

(L) Appendix B to 40 C.F.R. Part 141, Subpart Q (standard health effects language for public notification);

(M) Appendix C to 40 C.F.R. Part 141, Subpart Q (list of acronyms used in public notification regulation);

(17) the following provisions from 40 C.F.R. 141.400 – 141.405 (Subpart S – ground water rule), revised as of July 1, 2015:

(A) 40 C.F.R. 141.400 (general requirements and applicability);

(B) 40 C.F.R. 141.401 (sanitary surveys for ground water systems);

(C) 40 C.F.R. 141.402 (ground water source microbial monitoring and analytical methods);

(D) 40 C.F.R. 141.403 (treatment technique requirements for ground water systems);

(E) 40 C.F.R. 141.404 (treatment technique violations for ground water systems);

(F) 40 C.F.R. 141.405 (reporting and recordkeeping for ground water systems);

(18) the following provisions from 40 C.F.R. 141.500 - 141.571 (Subpart T - enhanced filtration and disinfection - systems serving fewer than 10,000 people), revised as of July 1, 2015, except that the term "you" means the owner or operator:

(A) 40 C.F.R. 141.500 (general requirements);

(B) 40 C.F.R. 141.501 (Who is subject to the requirements of Subpart T?);

(C) 40 C.F.R. 141.502 (When must my system comply with these requirements?), except that the phrase "January 1, 2005" is revised to read "August 19, 2006";

(D) 40 C.F.R. 141.503 (What does Subpart T require?);

(E) 40 C.F.R. 141.510 (Is my system subject to the new finished water reservoir requirements?);

(F) 40 C.F.R. 141.511 (What is required of new finished water reservoirs?);

(G) 40 C.F.R. 141.520 (Is my system subject to the updated watershed control requirements?);

(H) 40 C.F.R. 141.521 (What updated watershed control requirements must my unfiltered system implement to continue to avoid filtration?);

(I) 40 C.F.R. 141.522 (How does the state determine whether my system's watershed control requirements are adequate?);

(J) 40 C.F.R. 141.530 (What is a disinfection profile and who must develop one?);

(K) 40 C.F.R. 141.531 (What criteria must a state use to determine that a profile is unnecessary?);

(L) 40 C.F.R. 141.532 (How does my system develop a disinfection profile and when must it begin?);

(M) 40 C.F.R. 141.533 (What data must my system collect to calculate a disinfection profile?);

(N) 40 C.F.R. 141.534 (How does my system use this data to calculate an inactivation ratio?);

(O) 40 C.F.R. 141.535 (What if my system uses chloramines, ozone, or chlorine dioxide for primary disinfection?);

(P) 40 C.F.R. 141.536 (My system has developed an inactivation ratio; what must we do now?);

(Q) 40 C.F.R. 141.540 (Who has to develop a disinfection benchmark?);

(R) 40 C.F.R. 141.541 (What are significant changes to disinfection practice?);

(S) 40 C.F.R. 141.542 (What must my system do if we are considering a significant change to disinfection practices?);

(T) 40 C.F.R. 141.543 (How is the disinfection benchmark calculated?);

(U) 40 C.F.R. 141.544 (What if my system uses chloramines, ozone, or chlorine dioxide for primary disinfection?);

(V) 40 C.F.R. 141.550 (Is my system required to meet Subpart T combined filter effluent turbidity limits?);

(W) 40 C.F.R. 141.551 (What strengthened combined filter effluent turbidity limits must my system meet?);

(X) 40 C.F.R. 141.552 (My system consists of "alternative filtration" and is required to conduct a demonstration - what is required of my system and how does the state establish my turbidity limits?);

(Y) 40 C.F.R. 141.553 (My system practices lime softening - is there any special provision regarding my combined filter effluent?);

(Z) 40 C.F.R. 141.560 (Is my system subject to individual filter turbidity requirements?);

(AA) 40 C.F.R. 141.561 (What happens if my system's turbidity monitoring equipment fails?);

(BB) 40 C.F.R. 141.562 (My system only has two or fewer filters - is there any special provision regarding individual filter turbidity monitoring?);

(CC) 40 C.F.R. 141.563 (What follow-up action is my system required to take based on continuous turbidity monitoring?);

(DD) 40 C.F.R. 141.564 (My system practices lime softening - is there any special provision regarding my individual filter turbidity monitoring?);

(EE) 40 C.F.R. 141.570 (What does Subpart T require that my system report to the state?);

(FF) 40 C.F.R. 141.571 (What records does Subpart T require my system to keep?);

(19) the following provisions from 40 C.F.R.141.600 - 141.605 (Subpart U - initial distribution system evaluations), revised as of July 1, 2015, except that the term "you" means the owner or operator:

- (A) 40 C.F.R. 141.600 (general requirements);
- (B) 40 C.F.R. 141.601 (standard monitoring);
- (C) 40 C.F.R. 141.602 (system specific studies);
- (D) 40 C.F.R. 141.603 (40/30 certification);
- (E) 40 C.F.R. 141.604 (very small system waivers);
- (F) 40 C.F.R. 141.605 (Subpart V compliance monitoring location recommendations);

(20) the following provisions from 40 C.F.R.141.620 - 141.629 (Subpart V - Stage 2 disinfection byproducts requirements), revised as of July 1, 2015, except that the term "you" means the owner or operator:

- (A) 40 C.F.R. 141.620 (general requirements);
- (B) 40 C.F.R. 141.621 (routine monitoring);
- (C) 40 C.F.R. 141.622 (Subpart V monitoring plan);
- (D) 40 C.F.R. 141.623 (reduced monitoring);
- (E) 40 C.F.R. 141.624 (additional requirements for consecutive systems);
- (F) 40 C.F.R. 141.625 (conditions requiring increased monitoring);
- (G) 40 C.F.R. 141.626 (operational evaluation levels);
- (H) 40 C.F.R. 141.627 (requirements for remaining on reduced TTHM and HAA5 monitoring based on Subpart L results);



(I) 40 C.F.R. 141.628 (requirements for remaining on increased TTHM and HAA5 monitoring based on Subpart L results);

(J) 40 C.F.R. 141.629 (reporting and recordkeeping requirements);

(21) the following provisions from 40 C.F.R. 141.700 - 141.723 (Subpart W - enhanced treatment for *Cryptosporidium*), revised as of July 1, 2015:

(A) 40 C.F.R. 141.700 (general requirements);

(B) 40 C.F.R. 141.701 (source water monitoring);

(C) 40 C.F.R. 141.702 (sampling schedules);

(D) 40 C.F.R. 141.703 (sampling locations);

(E) 40 C.F.R. 141.704 (analytical methods);

(F) 40 C.F.R. 141.705 (approved laboratories);

(G) 40 C.F.R. 141.706 (reporting source water monitoring results);

(H) 40 C.F.R. 141.707 (grandfathering previously collected data);

(I) 40 C.F.R. 141.708 (requirements when making a significant change in disinfection practice);

(J) 40 C.F.R. 141.709 (developing the disinfection profile and benchmark);

(K) 40 C.F.R. 141.710 (bin classification for filtered systems);

(L) 40 C.F.R. 141.711 (filtered system additional *Cryptosporidium* treatment requirements);

(M) 40 C.F.R. 141.712 (unfiltered system *Cryptosporidium* treatment requirements);

(N) 40 C.F.R. 141.713 (schedule for compliance with *Cryptosporidium* treatment requirements);

(O) 40 C.F.R. 141.714 (requirements for uncovered finished water storage facilities);

(P) 40 C.F.R. 141.715 (microbial toolbox options for meeting *Cryptosporidium* treatment requirements);

(Q) 40 C.F.R. 141.716 (source toolbox components);

(R) 40 C.F.R. 141.717 (pre-filtration treatment toolbox components);

(S) 40 C.F.R. 141.718 (treatment performance toolbox components);

(T) 40 C.F.R. 141.719 (additional filtration toolbox components);

(U) 40 C.F.R. 141.720 (inactivation toolbox components);

(V) 40 C.F.R. 141.721 (reporting requirements);

(W) 40 C.F.R. 141.722 (recordkeeping requirements);

(X) 40 C.F.R. 141.723 (requirements to respond to significant deficiencies identified in sanitary surveys performed by EPA);

(22) the following provisions from 40 C.F.R. 141.851 – 141.861 (Subpart Y – revised total coliform rule), revised as of July 1, 2015:

(A) 40 C.F.R. 141.851 (general);

(B) 40 C.F.R. 141.852 (analytical methods and laboratory certification);

(C) 40 C.F.R. 141.853 (general monitoring requirements for all public water systems);

(D) 40 C.F.R. 141.854 (routine monitoring requirements for non-community water systems serving 1,000 or fewer people using only ground water), except 40 C.F.R. 141.854(d), (e), and (h) are not adopted;

(E) 40 C.F.R. 141.855 (routine monitoring requirements for community water systems serving 1,000 or fewer people using only ground water), except 40 C.F.R. 141.855(d) is not adopted, and in 40 C.F.R. 141.855(e), the phrase "until it meets the reduced monitoring requirements in paragraph (d) of this section" is not adopted;

(F) 40 C.F.R. 141.856 (routine monitoring requirements for subpart H public water systems of this part serving 1,000 or fewer people);

(G) 40 C.F.R. 141.857 (routine monitoring requirements for public water systems of this part serving more than 1,000 people);

(H) 40 C.F.R. 141.858 (repeat monitoring and *E. coli* requirements)

(I) 40 C.F.R. 141.859 (coliform treatment technique triggers and assessment requirements for protection against potential fecal contamination);

(J) 40 C.F.R. 141.860 (violations);

(K) 40 C.F.R. 141.861 (reporting and recordkeeping);

(23) the following provisions from 40 C.F.R. 142.16, revised as of July 1, 2015:

(A) 40 C.F.R. 142.16(b)(3)(i) (sanitary survey) for surface water systems, including GWUDISW systems;

(B) 40 C.F.R. 142.16(o)(2)(i) (state practices or procedures for sanitary surveys) for groundwater systems;

(24) the following provisions from 40 C.F.R. 142.20 - 142.24 (Subpart C - review of state-issued variances and exemptions), revised as of July 1, 2015:

(A) 40 C.F.R. 142.20 (state-issued variances and exemptions under Section 1415(a) and Section 1416 of the Act);

(B) 40 C.F.R. 142.21 (state consideration of a variance or exemption request);

(25) the following provisions from 40 C.F.R. 142.40 - 142.46 (Subpart E - variances issued by the administrator under Section 1415(a) of the Act), revised as of July 1, 2015, except that the term "administrator" means "department":

(A) 40 C.F.R. 142.40 (requirements for a variance);

(B) 40 C.F.R. 142.41 (variance request);

(C) 40 C.F.R. 142.42 (consideration of a variance request);

(D) 40 C.F.R. 142.43 (disposition of a variance request);

(E) 40 C.F.R. 142.44 (public hearings on variances and schedules);

(F) 40 C.F.R. 142.45 (action after hearing);

(G) 40 C.F.R. 142.46 (alternative treatment techniques);

(26) the following provisions from 40 C.F.R. 142.50 - 142.57 (Subpart F - exemptions issued by the administrator), revised as of July 1, 2015, except that the term "administrator" means "department":

(A) 40 C.F.R. 142.50 (requirements for an exemption);

(B) 40 C.F.R. 142.51 (exemption request);

(C) 40 C.F.R. 142.52 (consideration of an exemption request);

(D) 40 C.F.R. 142.53 (disposition of an exemption request);

(E) 40 C.F.R. 142.54 (public hearings on exemption schedules);

(F) 40 C.F.R. 142.55 (final schedule);

(G) 40 C.F.R. 142.56 (extension of date for compliance);

(H) 40 C.F.R. 142.57 (bottled water, point-of-use, and point-of-entry devices);

(27) the following provisions from 40 C.F.R. 142.60 - 142.65 (Subpart G - identification of best technology, treatment techniques or other means generally available), revised as of July 1, 2015:

(A) 40 C.F.R. 142.60 (variances from the maximum contaminant level for total trihalomethanes);

(B) 40 C.F.R. 142.61 (variances from the maximum contaminant level for fluoride);

(C) 40 C.F.R. 142.62 (variances and exemptions from the maximum contaminant levels for organic and inorganic chemicals);

(D) 40 C.F.R. 142.65 (variances and exemptions from the maximum contaminant levels for radionuclides);

(28) the following provisions from 40 C.F.R. 142.301 - 142.313 (Subpart K - variances for small system), revised as of July 1, 2015, except that the term "administrator" means "department":

(A) 40 C.F.R. 142.301 (What is a small system variance?); however, the last sentence of 40 C.F.R. 142.301 is not adopted;

(B) 40 C.F.R. 142.302(a) (Who can issue a small system variance?);



(C) 40 C.F.R. 142.303 (Which size public water systems can receive a small system variance?);

(D) 40 C.F.R. 142.304 (For which of the regulatory requirements is a small system variance available?);

(E) 40 C.F.R. 142.305 (When can a small system variance be granted by a state?);

(F) 40 C.F.R. 142.306 (What are the responsibilities of the public water system, state and the administrator in ensuring that sufficient information is available and for evaluation of a small system variance application?);

(G) 40 C.F.R. 142.307 (What terms and conditions must be included in a small system variance?);

(H) 40 C.F.R. 142.308 (What public notice is required before a state or the administrator proposes to issue a small system variance?); however, in 40 C.F.R. 142.308(b), the phrase "the State equivalent to the Federal Register or" is not adopted;

(I) 40 C.F.R. 142.309 (What are the public meeting requirements associated with the proposal of a small system variance?);

(J) 40 C.F.R. 142.310(a) (How can a person served by the public water system obtain EPA review of a state proposed small system variance?);

(29) 40 C.F.R. 143.3 (national secondary drinking water regulations - secondary maximum contaminant levels), revised as of July 1, 2015;

(30) 40 C.F.R. 143.4 (national secondary drinking water regulations - monitoring), revised as of July 1, 2015.

(Eff. 10/1/99, Register 151; am 8/23/2000, Register 155; am 3/25/2001, Register 157; am

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9/28/2001, Register 159; am 1/11/2004, Register 169; am 5/2/2004, Register 170; am 8/26/2004, Register 171; am 1/11/2006, Register 177; am 8/19/2006, Register 179; am 11/9/2006, Register 180; am 4/24/2009, Register 190; am 11/20/2009, Register 192; am 7/25/2010, Register 195; am 11/11/2010, Register 196; am 5/20/2011, Register 198; am 12/13/2014, Register 212; am 2 / 11 / 2017, Register 221.)

**Authority:** AS 46.03.020                      AS 46.03.710                      AS 46.03.720  
AS 46.03.050

18 AAC 80.015(e)(1) is amended to read:

(1) a method that conforms to ANSI/AWWA Standard **A100-06** [A100-97], *Water Wells*, and Appendix H to ANSI/AWWA Standard **A100-06** [A100-97] (Decommissioning of Test Holes, Partially Completed Wells, and Abandoned Completed Wells), adopted by reference in 18 AAC 80.010(b); or  
(Eff. 10/1/99, Register 151; am 1/11/2006, Register 177; am 8/19/2006, Register 179; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221.)

**Authority:** AS 46.03.020                      [AS 46.03.070]                      AS 46.03.720  
AS 46.03.050                      AS 46.03.710

18 AAC 80.020(a), Table A, is amended to read:

**18 AAC 80.020. Minimum separation distances.** (a) A person may not construct, install, maintain, or operate a public water system unless the minimum separation distances in Table A, in this subsection, are maintained between a potential source of contamination and a drinking water source for the public water system.

<b>TABLE A. Minimum Separation Distances<sup>a</sup> Between Drinking Water Sources and Potential Sources of Contamination</b> (Measured horizontally in feet)		
Type of Drinking Water System		
Potential Sources of Contamination	Community Water Systems, Non-transient Non-Community Water Systems, and Transient Non-Community Water Systems	[CLASS C PUBLIC WATER SYSTEMS]
Wastewater treatment works, <sup>b</sup> wastewater disposal system, <sup>b</sup> pit privy, <sup>b</sup> sewer manhole, lift station, cleanout	200	[150]
Community sewer line, holding tank, <sup>b</sup> other potential sources of contamination <sup>c</sup>	200	[100]
Private sewer line, petroleum lines and storage tanks, <sup>d</sup> drinking water treatment waste <sup>e</sup>	100	[75]

Notes to Table A:

- <sup>a</sup> These minimum distances will be expanded, or additional monitoring will be required under 18 AAC 80.020(b) and (e)(2).
- <sup>b</sup> Distance to a drinking water source is measured from the nearest edge of the drinking water source to the nearest edge of the potential source of contamination.
- <sup>c</sup> Other potential sources of contamination include sanitary landfills, domestic animal and agricultural waste, and industrial discharge lines.
- <sup>d</sup> The minimum separation distances for petroleum storage tanks do not apply to tanks that contain propane, or to above-ground storage tanks or drums that, in the aggregate, have a storage capacity of less than 500 gallons of petroleum products, and that store only petroleum products necessary for the operation and maintenance of pumps, power generation systems, or heating systems associated with a potable water source.
- <sup>e</sup> Drinking water treatment wastes include the backwash water from filters and water softeners, and the reject water from reverse osmosis units.

18 AAC 80.020(c)(1) is amended to read:

(1) be sealed by a registered engineer; [A REPORT FOR A CLASS C PUBLIC WATER SYSTEM DOES NOT HAVE TO BE SEALED BY A REGISTERED ENGINEER IF THE DEPARTMENT DETERMINES THAT

(A) THE SITE OF THE PROPOSED CLASS C PUBLIC WATER SYSTEM IS REMOTE FROM A COMMUNITY WITH ACCESS TO PROFESSIONAL ENGINEERING SERVICES, AND THAT THE RESULTING COST OF BRINGING A REGISTERED ENGINEER TO THE SITE WOULD BE OVERLY

BURDENSOME; AND

(B) PUBLIC HEALTH AND PUBLIC AND PRIVATE WATER

SYSTEMS ARE ADEQUATELY PROTECTED WITHOUT THIS REQUIREMENT;]

(Eff. 10/1/99, Register 151; am 8/19/2006, Register 179; am 7/25/2010, Register 195; am

11/11/2010, Register 196; am 2 / 11 / 2017, Register 221)

**Authority:** AS 44.46.020 AS 46.03.050 AS 46.03.720

AS 46.03.020 AS 46.03.710

18 AAC 80.035(b)(1) is amended to read:

(1) the department is aware of a condition that poses a threat to the microbiological quality of water [SANITARY DEFECT];

18 AAC 80.035(b)(2) is amended to read:

(2) the system is in violation of the MCL for Escherichia coli [TOTAL COLIFORM] bacteria set by 40 C.F.R. 141.63(c) and (d) [40 C.F.R. 141.63(a) – (b)], adopted by reference in 18 AAC 80.010(a); or

18 AAC 80.035(b)(3) is amended to read:

(3) the department determines that a significant potential exists for violation of the MCL for Escherichia coli [TOTAL COLIFORM] bacteria set by 40 C.F.R. 141.63(c) and (d) [40 C.F.R. 141.63(a)–(b)], adopted by reference in 18 AAC 80.010(a).

(Eff. 10/1/99, Register 151; am 3/25/2001, Register 157; am 11/9/2006, Register 180; am

4/24/2009, Register 190; am 7/25/2010, Register 195; am 5/20/2011, Register 198; am



2 / 11 / 2017, Register 221 )

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720

AS 46.03.050

The section heading of 18 AAC 80.050 is changed to read:

**18 AAC 80.050. Deficiencies, sanitary defects, and corrective actions.**

18 AAC 80.050(a)(2) is amended to read:

(2) to prevent or remedy a deficiency or sanitary defect that does not directly or indirectly cause, or have the potential to cause, a risk to public health.

18 AAC 80.050(b)(2) is amended to read:

(2) the department determines that corrective action, but not necessarily a corrective action plan, is required to prevent or remedy a risk to public health, regardless of whether the direct, indirect, or potential cause of that risk is a deficiency or sanitary defect.

18 AAC 80.050(c)(2) is amended to read:

(2) the department determines that a corrective action plan is required to prevent or remedy a risk to public health, regardless of whether the direct, indirect, or potential cause of that risk is a deficiency or sanitary defect.

18 AAC 80.050(d) is amended to read:

(d) If the department requires corrective action under (a), (b), or (c) of this section, the

deficiency or sanitary defect, or the direct, indirect, or potential cause of a risk to public health, will be considered to be adequately addressed only when corrective action has been approved by the department or completed in accordance with a corrective action plan approved by the department. (Eff. 5/20/2011, Register 198; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020                      AS 46.03.710                      AS 46.03.720  
AS 46.03.050

The introductory language of 18 AAC 80.055(a) is amended to read:

**18 AAC 80.055. Public water system emergency preparedness requirements. (a)**

The owner or authorized representative of a community water system serving 1,000 or more individuals or a non-transient non-community water system serving 1,000 or more individuals shall

...

18 AAC 80.055(a)(3) is amended to read:

(3) review and update the emergency response plan for submittal to the department as required under (h) of this section [EVERY TWO YEARS].

The introductory language of 18 AAC 80.055(b) is amended to read:

(b) Except as provided under (e) of this section, the [THE] owner or authorized representative of a community water system serving fewer than 1,000 individuals, a non-transient non-community water system serving fewer than 1,000 individuals, or a transient

non-community water system serving 1,000 or more individuals shall

• • •

18 AAC 80.055(b)(2) is amended to read:

(2) review and update the emergency priority measures plan **for submittal to the department as required under (h) of this section** [EVERY TWO YEARS].

18 AAC 80.055(e) is repealed and readopted to read:

(e) An emergency priority measures plan for a system subject to (b) of this section

(1) must comply with (d)(4)(C), (5), (6), and (8) of this section, except that

(A) the owner or authorized representative of a transient non-community water system subject to (b) of this section may, in the emergency priority measures plan, elect to terminate service during an emergency instead of identifying alternate water supplies under (d)(8) of this section; or

(B) the department may, on a case-by-case basis after consultation with the owner or authorized representative of a transient non-community water system described in (b) of this section, amend or waive the requirements set out under (d)(4)(C), (5), (6), or (8) of this section; and

(2) must set out a plan for annually training staff in each component of the emergency priority measures plan;

18 AAC 80.055(g) is amended to read:

(g) The owner **or authorized representative** of a public water system subject to this

section shall submit to the department an initial certification of compliance, on a form provided by the department and subject to 18 AAC 80.1900, as follows:

(1) for a public water system described in (a) of this section that is in operation on August 20, 2012, no later than 18 months after August 20, 2012, the owner **or authorized representative** shall certify that the system complies with the requirements of (a)(1) and (2) of this section;

(2) for a public water system subject to (b) of this section that is in operation on August 20, 2012, no later than 12 months after August 20, 2012, the owner **or authorized representative** shall certify that the system complies with the requirements of (b)(1) of this section;

(3) for a new public water system subject to (a) of this section that first becomes operational after August 20, 2012, no later than 60 days after receiving its approval to operate under 18 AAC 80.210(i) or (j), whichever comes first, in addition to complying with 18 AAC 80.207(d)(4), the owner **or authorized representative** shall certify that the system complies with the requirements of (a)(1) and (2) of this section.

(4) for a new public water system subject to (b) of this section that first becomes operational after August 20, 2012, no later than 60 days after receiving its approval to operate under 18 AAC 80.210(i) or (j), whichever comes first, in addition to complying with 18 AAC 80.207(d)(4), the owner **or authorized representative** shall certify that the system complies with the requirements of (b)(1) of this section.

18 AAC 80.055(h) is amended to read:

(h) The owner **or authorized representative** of a public water system subject to this



section shall submit to the department, on a form provided by the department and subject to 18 AAC 80.1900, a renewal of its certification of compliance, as set out under (a)(3) or (b)(2) of this section as applicable, **not** [NO] later than **December 31 of the calendar year that is two years after the year of initial certification. Subsequent renewals must be submitted no later than December 31 of the calendar year every two years thereafter** [60 DAYS BEFORE EACH BIENNIAL ANNIVERSARY OF ITS INITIAL CERTIFICATION].

(Eff. 8/20/2012, Register 203; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020                      AS 46.03.710                      AS 46.03.720  
AS 46.03.050

The introductory language of 18 AAC 80.200(a) is amended to read:

(a) The department will classify each public water system as a community water system, non-transient non-community water system, **or** transient non-community water system, [OR CLASS C PUBLIC WATER SYSTEM,] based on information

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18 AAC 80.200(h) is repealed:

(h) Repealed 2 / 11 / 2017.

18 AAC 80.200(i) is repealed:

(i) Repealed 2 / 11 / 2017.

18 AAC 80.200(j) is repealed:

(j) Repealed 2 / 11 / 2017.

(Eff. 10/1/99, Register 151; am 3/25/2001, Register 157; am 4/24/2009, Register 190; am 7/25/2010, Register 195; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020                      AS 46.03.710                      AS 46.03.720  
AS 46.03.050

18 AAC 80.205(c)(2), Table B, is amended to read:

(2) for a public water system proposing to use a new source, the results of raw water testing, conducted before operation, as shown in Table B of this paragraph; and



<b>Table B. Minimum Raw Water Testing Requirements for a System Proposing to Use a New Water Source</b>						
	<b>Community or Non-Transient Non-Community</b>		<b>Transient Non- Community</b>		<b>[CLASS C]</b>	
	<b>Ground water</b>	<b>Surface Water</b>	<b>Ground water</b>	<b>Surface Water</b>	<b>[GROUND] [WATER]</b>	<b>[SURFACE] [WATER]</b>
Total Coliform Bacteria	Yes	Yes	Yes	Yes	[YES]	[YES]
Inorganic Chemicals (not including asbestos)	Yes	Yes	No	No	[NO]	[NO]
Nitrate	Yes	Yes	Yes	Yes	[YES]	[YES]
Nitrite	Yes	Yes	Yes	Yes	[YES]	[YES]
Volatile Organic Chemicals	Yes	Yes	No	No	[NO]	[NO]
Secondary Contaminants	Yes	Yes	No	No	[NO]	[NO]

(Eff. 10/1/99, Register 151; am 1/11/2006, Register 177; am 8/19/2006, Register 179; am 4/24/2009, Register 190; am 7/25/2010, Register 195; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020      AS 46.03.710      AS 46.03.720  
AS 46.03.050

18 AAC 80.300(b)(4) is amended to read:

(4) for *Escherichia coli* [TOTAL COLIFORM] bacteria, the MCL set out in 40 C.F.R. 141.63(c) and (d) [40 C.F.R. 141.63(a) AND (b)], adopted by reference in 18 AAC 80.010(a);

(Eff. 10/1/99, Register 151; am 9/28/2001, Register 159; am 1/11/2004, Register 169; am 5/2/2004, Register 170; am 1/11/2006, Register 177; am 11/9/2006, Register 180; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221 )

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

The introductory language of 18 AAC 80.305(f) is amended to read:

(f) The department will determine compliance with the MCL for *Escherichia coli* [TOTAL COLIFORM] bacteria, set under 18 AAC 80.300(b)(4), in accordance with 40 C.F.R. 141.860, adopted by reference in 18 AAC 80.010(a). The determination includes the following [AS FOLLOWS]:

...

(Eff. 10/1/99, Register 151; am 9/28/2001, Register 159; am 1/11/2004, Register 169; am 1/11/2006, Register 177; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221 )

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

18 AAC 80.310(c) is repealed:

(c) Repealed 2 / 11 / 2017.

18 AAC 80.310(e)(2) is amended to read:

(2) submit to the department the results of [ONE] total coliform analyses in accordance with the approved sample siting plan under 18 AAC 80.410 for that water haul public water system [ANALYSIS PER MONTH PER VEHICLE, UNLESS THE DEPARTMENT, IN WRITING, REDUCES THE MONITORING FREQUENCY. THE DEPARTMENT WILL REDUCE THE MONITORING FREQUENCY IF, IN THE PREVIOUS 12 MONTHS DURING WHICH THE WATER HAULER PROVIDED WATER TO THE PUBLIC, THE WATER HAULER DID NOT HAVE A TOTAL COLIFORM MONITORING VIOLATION. THE DEPARTMENT WILL NOT REDUCE THE MONITORING FREQUENCY TO LESS THAN ONE SAMPLE PER QUARTER PER WATER HAULER].

The introductory language of 18 AAC 80.310(f) is amended to read:

(f) A public water system with a primary water source that is a rain catchment system is exempt from the monitoring requirements of (a), (b), (d), and (e) [(a)-(e)] of this section. The owner or operator shall meet the following monitoring requirements:

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18 AAC 80.310(f)(1)(A)(iv) is amended to read:

(iv) the provisions of 18 AAC 80.400 - 18 AAC 80.445

[18 AAC 80.400 - 18 AAC 80.430 AND 18 AAC 80.440] for coliform bacteria;

(Eff. 10/1/99, Register 151; am 9/28/2001, Register 159; am 8/19/2006, Register 179; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

18 AAC 80.355(b) is amended to read:

(b) For a report of an analysis indicating nitrate in excess of the contaminant level set by 18 AAC 80.300(b)(1), or indicating **the presence of** [POSITIVE] coliform bacteria,

(1) oral, [OR] facsimile, **or electronic mail** notice must be given to the department's local drinking water program office closest to the public water system and to the owner or operator as soon as possible after the analysis results are known; and

(2) written notice, **if not already provided under (1) of this subsection,** must be sent to the department and to the owner or operator within 24 hours after the analysis results are known, **but written notice may not be provided later than the end of the next working day after the analysis results are known.**

(Eff. 10/1/99, Register 151; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

The section listing of 18 AAC 80 Article 4 is changed to read:

#### **Section**

400. Applicability of coliform bacteria requirements

- 405. Routine monitoring
- 410. Sample siting plan review and approval
- 415. Repeat monitoring
- 420. **Total** [FECAL TOTAL] coliform and *Escherichia coli* (*E. coli*) testing and laboratory reporting
- 425. Invalidation of total coliform samples
- 430. Sanitary surveys
- 435. Application, training, examination, and approval requirements for sanitary survey inspectors
- 438. **Renewal** [APPROVAL FOR RENEWAL] **of approval for a sanitary survey inspector**
- 439. Revocation of approval **for a sanitary survey inspector**
- 440. **(Repealed)** [STANDARD SAMPLE VOLUME]
- 443. Level 1 assessment requirements**
- 445. Level 2 assessment requirements**

18 AAC 80.400 is amended to read:

**18 AAC 80.400. Applicability of coliform bacteria requirements.** The requirements of **18 AAC 80.400 – 18 AAC 80.445** [18 AAC 80.400 – 18 AAC 80.430 AND 18 AAC 80.440] apply [ONLY] to the owner or operator of a **public** [COMMUNITY WATER SYSTEM, NON-TRANSIENT NON-COMMUNITY WATER SYSTEM, OR TRANSIENT NON-COMMUNITY] water system, [OR] to a certified laboratory that analyzes a sample from that system, **or to a person who conducts sanitary surveys and assessments.** (Eff. 10/1/99, Register 151; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221.)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

18 AAC 80.405 is repealed and readopted to read:

**18 AAC 80.405. Routine monitoring.** (a) General monitoring requirements for a public water system include the following:

(1) the operator of a public water system shall collect total coliform samples at sites that are representative of water throughout the distribution system according to a written sample siting plan that complies with 40 C.F.R. 141.853(a) and (b), adopted by reference in 18 AAC 80.010(a), and with 18 AAC 80.410;

(2) the minimum number of routine samples required for a public water system is as follows:

(A) for a non-community water system that is a groundwater system, that serves 1,000 or fewer individuals, and that operates year-round: one sample per quarter;

(B) for a non-community water system that is a groundwater system, that serves 1,000 or fewer individuals, and that is a seasonal system: one sample per month during operation; monitoring may be reduced to quarterly as allowed under (b)(1) of this section;

(C) for a community water system that is a groundwater system and that serves 1,000 or fewer individuals: one sample per month; quarterly monitoring may be allowed as set out under (c)(1) of this section;

(D) for a public water system that uses a surface water or GWUDISW source and that serves 1,000 or fewer individuals: one sample per month;



(E) for any public water system that serves more than 1,000 individuals:  
the number of samples per month as shown in the table "Total Coliform Monitoring  
Frequency for Public Water Systems Serving More than 1,000 People" in  
40 C.F.R. 141.857(b), adopted by reference in 18 AAC 80.010(a); and

(3) the department will not allow a monitoring frequency for a public water  
system of less than one sample per quarter.

(b) A non-community water system that is a groundwater system and that serves 1,000 or  
fewer individuals must meet the routine monitoring requirements of 40 C.F.R. 141.854, adopted  
by reference in 18 AAC 80.010(a). In addition,

(1) under 40 C.F.R. 141.854(c), if a system is monitoring monthly as of April 1,  
2016, the department will allow quarterly monitoring as follows:

(A) for a system that operates year-round that is on increased monitoring  
under 40 C.F.R. 141.854(f), the department will, in writing, return the system to a  
monitoring frequency of not less than quarterly if the

(i) owner requests the reduction in writing; and

(ii) system meets the criteria set out in 40 C.F.R. 141.854(g); the  
system must be supplied by a protected groundwater source described in (f) of  
this section;

(B) for a seasonal system, the department will, in writing, reduce the  
monitoring frequency to not less than quarterly if the

(i) owner requests the reduction in writing;

(ii) system meets the criteria set out in 40 C.F.R. 141.854(g); the

system must be supplied by a protected groundwater source described in (f) of this section; and

(iii) system meets the applicable requirements of 40 C.F.R.

141.854(i); under 40 C.F.R. 141.854(i)(2)(i), the department will require the system to use the system's periods of highest demand as the site-specific consideration on which the system's sample siting plan is based; and

(2) for a seasonal system, the department will require, as part of the seasonal system start-up information under 40 C.F.R. 141.854(i)(1), a separate start-up total coliform sample that is negative for coliform bacteria before the system may serve water to the public; the department will not allow a routine total coliform sample to also be used as the start-up sample.

(c) A community water system that is a groundwater system and that serves 1,000 or fewer individuals must meet the routine monitoring requirements of 40 C.F.R. 141.855, adopted by reference in 18 AAC 80.010(a). In addition,

(1) under 40 C.F.R. 141.855(b), (c), and (e), the only systems allowed to monitor quarterly as of April 1, 2016, are systems that were on quarterly monitoring under schedules in effect as of March 31, 2016, under 40 C.F.R. 141.21, adopted by reference in 18 AAC 80.010(a);

(2) as of April 1, 2016, if a system that was on quarterly monitoring returns to routine monthly monitoring under 40 C.F.R. 141.855(e), the system must remain on monthly monitoring afterwards; and

(3) a new system that begins operations on or after April 1, 2016, must monitor monthly;

(d) A public water system that serves 1,000 or fewer individuals and that uses a surface water or GWUDISW source must meet the routine monitoring requirements of 40 C.F.R.

141.856, adopted by reference in 18 AAC 80.010(a). In addition,

(1) for a seasonal system, the department will require, as part of the seasonal system start-up information under 40 C.F.R. 141.856(a)(4)(i), a separate start-up total coliform sample that is negative for coliform bacteria before the system may serve water to the public; the department will not allow a routine total coliform sample to also be used as the start-up sample; and

(2) under 40 C.F.R. 141.856(c), adopted by reference in 18 AAC 80.010(a), for a surface water system that does not practice filtration and has a turbidity measurement exceeding one NTU, the department may extend the 24-hour coliform sample collection time if the department finds that the operator, for logistical reasons outside the operator's control, cannot have the required coliform sample analyzed within 30 hours after collection, or, for a remote area as described 18 AAC 80.350, within 48 hours after collection; the department may extend the 24-hour sample collection schedule as follows, except that the department will not grant a waiver under this paragraph because of a lack of sampling containers:

(A) criteria for granting a waiver that extends the sample collection time include one or more of the following:

(i) the laboratories available to the public water system cannot analyze the sample within 30 hours after collection, or, for an area described in 18 AAC 80.350, within 48 hours after collection because of limited days of operation or limited laboratory capacity;

(ii) weather conditions prevent shipment of the sample to the laboratory and analysis within 30 hours after collection, or, for an area described in 18 AAC 80.350, within 48 hours after collection;

(iii) shipping services available to the public water system are limited so that the sample cannot be shipped and analyzed within 30 hours after collection, or, for an area described in 18 AAC 80.350, within 48 hours after collection;

(iv) another unusual or unpredictable situation, such as a wildfire or a landslide closing the road or knocking out a transmission line, makes it impossible for the public water system to meet either the 30-hour or the 48-hour sample holding time requirement;

(B) after determining under (A) of this paragraph that the public water system is unable to meet the 30-hour or the 48-hour sample holding time requirement, the department will grant a sample collection schedule waiver to the owner; the waiver is a written record of communication with the owner or operator describing the logistical problem and identifying an alternative sample collection schedule; the record of the waiver will be placed in the department's water system file; if the department determines that the logistical problems are likely to persist, the department may grant a standing waiver that will remain in effect for that public water system until the department rescinds or revises it; the standing waiver is a written record of the department's evaluation of and determination that the logistical problems are likely to persist; the record of the standing waiver will be placed in the department's water system file.

(e) Any public water system that serves more than 1,000 individuals must meet the routine monitoring requirements of 40 C.F.R.141.857, adopted by reference in 18 AAC 80.010(a). In addition,



(1) for a seasonal system, the department will require, as part of the seasonal start-up information under 40 C.F.R. 141.857(a)(4)(i), a separate start-up total coliform sample that is negative for coliform bacteria before the system may serve water to the public; the department will not allow a routine total coliform sample to also be used as the start-up sample; and

(2) under 40 C.F.R. 141.857(c), for a surface water system that does not practice filtration and has a turbidity measurement exceeding one NTU, the department may extend the 24-hour coliform sample collection time if the department finds that the operator, for logistical reasons outside the operator's control, cannot have the required coliform sample analyzed within 30 hours after collection, or, for a remote area as described 18 AAC 80.350, within 48 hours after collection; the department may extend the 24-hour sample collection schedule as follows, except that the department will not grant a waiver under this paragraph because of a lack of sampling containers:

(A) criteria for granting a waiver that extends the sample collection time include one or more of the following:

(i) the laboratories available to the public water system cannot analyze the sample within 30 hours after collection, or, for an area described in 18 AAC 80.350, within 48 hours after collection because of limited days of operation or limited laboratory capacity;

(ii) weather conditions prevent shipment of the sample to the laboratory and analysis within 30 hours after collection, or, for an area described in 18 AAC 80.350, within 48 hours after collection;

(iii) shipping services available to the public water system are limited so that the sample cannot be shipped and analyzed within 30 hours after collection, or, for an area described in 18 AAC 80.350, within 48 hours after collection;

(iv) another unusual or unpredictable situation, such as a wildfire or a landslide closing the road or knocking out a transmission line, makes it impossible for the public water system to meet either the 30-hour or the 48-hour sample holding time requirement;

(B) after determining under (A) of this paragraph that the public water system is unable to meet the 30-hour or the 48-hour sample holding time requirement, the department will grant a sample collection schedule waiver to the owner; the waiver is a written record of communication with the owner or operator describing the logistical problem and identifying an alternative sample collection schedule; the record of the waiver will be placed in the department's water system file; if the department determines that the logistical problems are likely to persist, the department may grant a standing waiver that will remain in effect for that public water system until the department rescinds or revises it; the standing waiver is a written record of the department's evaluation of and determination that the logistical problems are likely to persist; the record of the standing waiver will be placed in the department's water system file.

(f) For purposes of this section, a protected groundwater source is a public water system source classified as groundwater that is protected from, or shows adequate indications of being protected from, actual or potential contamination, as follows:



(1) the source is not GWUDISW, surface water, or groundwater vulnerable to fecal contamination;

(2) the source complies with

(A) the applicable source water and well protection requirements of 18 AAC 80.015; and

(B) the minimum separation distance requirements of 18 AAC 80.020; and

(3) at least one of the following is met:

(A) the engineering plan review and approval requirements of 18 AAC 80.200 – 18 AAC 80.235 are met, as applicable for the source;

(B) the source is in a confined aquifer;

(C) the owner, operator, or another entity acceptable to the department implements and maintains applicable source water protection strategies as determined by the department. (Eff. 10/1/99, Register 151; am 4/24/2009, Register 190; am

2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

18 AAC 80 is amended by adding a new section to read:

**18 AAC 80.407. Seasonal system start-up procedures.** For purposes of the seasonal system start-up procedures required under 40 C.F.R. 141.854(i), 40 C.F.R. 141.856(a)(4), and 40 C.F.R. 141.857(a)(4), all adopted by reference in 18 AAC 80.010(a),

(1) the owner or operator shall submit, subject to the report certification

requirements of 18 AAC 80.1900, system start-up information to the department on a current form provided, and in a format approved, by the department; the start-up information shall be provided within the first 10 days after serving water to the public during the new operating season; and

(2) the department will allow a public water system to be exempt from the requirement to conduct and document the start-up procedure if the entire distribution system remains pressurized year-round. (Eff. 2 / 11 / 2017, Register 221.)

**Authority:** AS 46.03.020                      AS 46.03.710                      AS 46.03.720  
AS 46.03.050

18 AAC 80.410 is repealed and readopted to read:

**18 AAC 80.410. Sample siting plan review and approval.** (a) The requirements of this section are in addition to the requirements of 40 C.F.R 141.853(a) and (b), adopted by reference in 18 AAC 80.010(a).

(b) A written sample siting plan, addressing appropriate coliform sampling sites and frequency, must be submitted by the owner or operator to the department for review and approval. The plan must include

(1) the public water system identification number assigned under  
18 AAC 80.210(c);

(2) the name, address, telephone number, facsimile number, and, if available, the electronic mail address of the public water system;

(3) the name, address, telephone number, facsimile number, and, if available, the electronic mail address of the owner or operator or a designee;

(4) the type of each water source;

(5) the number of service connections;

(6) the size of the population served each month;

(7) the schedule for sampling frequency, including the number of routine samples required each month or quarter; for a seasonal system on reduced monitoring, the schedule must indicate each month that the public water system experiences the highest use during the monitoring period;

(8) a list of sites where routine and repeat samples and other required samples will be taken during each monitoring period and the reasons for choosing those sites; the sites include the following:

(A) the sites set out in 40 C.F.R. 141.853; the department will allow an alternative sampling location for at least one repeat sample upstream or downstream of the original sampling site as allowed under 40 C.F.R. 141.853(a)(5);

(B) for a seasonal system, the location of the system start-up coliform sample taken before the system serves water to the public;

(C) for a groundwater system, the source water sampling points described in 40 C.F.R. 141.402, adopted by reference in 18 AAC 80.010(a);

(9) for a public water system with only one service connection, a narrative statement that

(A) indicates that the routine sample will be taken from the single service connection; and

(B) addresses how repeat monitoring will be done in the case of a positive

routine sample, as provided under 40 C.F.R. 141.858(a)(2), adopted by reference in 18 AAC 80.010(a);

(10) a map of the public water system showing the location of source waters and types, water treatment facilities, water storage facilities, distribution lines, pressure zones, the first service connection, pressure reducing stations, booster stations, dead ends and the last service connection, major commercial and industrial areas, and the areas, zones, or actual sites for routine sampling, repeat sampling, and other sampling as provided under (8) of this subsection; the owner may provide a hand-drawn map, an as-built map, a street map, or a schematic of the water system; for a large system, the owner may indicate sampling sites by dividing the distribution system into sampling zones instead of pinpointing sampling taps, and may draw sampling zones according to pressure zones, areas served by a particular source water, or areas served by a particular storage or treatment facility; and

(11) other information as needed on a case-by-case basis for the department to make a determination regarding plan adequacy.

(c) The department will review and approve the sample siting plan as follows:

(1) the owner shall submit a new or a revised plan to the department for review and approval, as follows:

(A) for a new public water system, before the system is allowed to serve water to the public under 18 AAC 80.210;

(B) if a change to the public water system may require a plan revision to ensure the plan is appropriate to the system, including changes in

(i) monitoring frequency, including quarterly to monthly;

(ii) the system's operation period;

- (iii) the population served;
- (iv) the source; or
- (v) the system's infrastructure;

(2) the owner shall keep the approved sample siting plan in the public water system's files; during a sanitary survey or other department-required inspection of the system, the owner shall make the plan available to the inspector as requested; the inspector shall review the plan and shall note any deficiencies in the plan, making suggestions for improvement subject to further department review and approval;

(3) based on the department's review, the department may

(A) make revisions directly to the plan, including modifying the system's monitoring schedule if the department determines that a different schedule is appropriate for the system; or

(B) require the owner to revise the plan; if a plan reviewed under this section has

(i) major deficiencies, the department will send the owner a report of these deficiencies within 30 days after receiving the plan; the owner shall submit a revised plan to the department within 30 days after receiving the report, unless the department and the owner agree in writing to another date; or

(ii) minor deficiencies, the department will consult with the owner, and after consultation, the owner shall agree in writing to a date for the owner to submit a revised plan;

(4) the department will notify the owner in writing when the sample siting plan is approved. (Eff. 10/1/99, Register 151; am 1/11/2006, Register 177; am 4/24/2009, Register 190;



am 5/20/2011, Register 198; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720

AS 46.03.050

18 AAC 80.415 is repealed and readopted to read:

**18 AAC 80.415. Repeat monitoring.** The requirements of 40 C.F.R. 141.858, adopted by reference in 18 AAC 80.010(a), apply to repeat monitoring. In addition,

(1) under 40 C.F.R. 141.858(a)(1), the department will, on a case-by-case basis, extend the 24-hour time limit if the owner or operator notifies the department about a logistical problem in collecting the repeat samples within 24 hours that is due to unusual and unpredictable circumstances beyond the owner's or operator's control and that makes meeting the 24-hour requirement impossible; for an extension under this paragraph, the department will specify how much time the public water system has to collect repeat samples; and

(2) repeat samples must be collected from the repeat sampling sites designated in the system's sample siting plan as set out in 18 AAC 80.410. (Eff. 10/1/99, Register 151; am 4/24/2009, Register 190; am 7/25/2010, Register 195; am 5/20/2011, Register 198; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720

AS 46.03.050

18 AAC 80.420 is repealed and readopted to read:

**18 AAC 80.420. Total coliform and *Escherichia coli* (*E. coli*) testing and laboratory reporting.** (a) Under 40 C.F.R. 141.858(b), adopted by reference in 18 AAC 80.010(a), the



owner or operator is responsible for ensuring that the department is notified in a timely manner of a routine or repeat sample that is total coliform-positive or *Escherichia coli*-positive, notwithstanding the requirements under (b) and (c) of this section.

(b) The certified laboratory performing the analysis shall report a positive total-coliform bacteria analysis to the owner and to the department within the time periods set out in 18 AAC 80.355 (b)(1) and (2). If a routine or repeat sample is total coliform positive, the certified laboratory shall analyze that total coliform-positive culture medium to determine if *Escherichia coli* bacteria are present.

(c) If the laboratory confirms the presence of *Escherichia coli*, the laboratory shall notify the department, by telephone, facsimile transmission, or electronic mail, of those results by the close of business on the day the laboratory notifies the owner. However, if the owner is notified of the results after the department office is closed, the laboratory shall notify the department before the close of business on the next working day. (Eff. 10/1/99, Register 151; am 11/9/2006, Register 180; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

18 AAC 80.425 is repealed and readopted to read:

**18 AAC 80.425. Invalidation of total coliform samples.** The requirements of 40 C.F.R. 141.853(c), adopted by reference in 18 AAC 80.010(a), apply to all public water systems and to certified laboratories that analyze drinking water samples. In addition,

(1) under 40 C.F.R. 141.853(c)(2), if a certified laboratory invalidates a sample, the laboratory shall notify the department and the owner by telephone, facsimile transmission, or

electronic mail, within 24 hours after invalidating the sample;

(2) the operator shall resample within 24 hours after receiving notice of the invalidated sample unless the department, on a case-by-case basis and after determining that public health is adequately protected, extends the 24-hour time limit for collecting the sample.

(Eff. 10/1/99, Register 151; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

The introductory language of 18 AAC 80.430(b) is amended to read:

(b) **Under 40 C.F.R. 142.16(b)(3)(i) and (o)(2)(i), adopted by reference in 18 AAC 80.010(a), and except** [EXCEPT] as provided in (c) of this section, the owner of a community water system, non-transient non-community water system, or transient non-community water system shall ensure that a sanitary survey is completed, and a report filed with the department, at least every

...

18 AAC 80.430(f) is amended to read:

(f) If a significant deficiency is found during a sanitary survey inspection, and poses or has the potential to pose an imminent threat to public health or safety, the sanitary survey inspector shall notify, by telephone, [OR] facsimile transmission, **or electronic mail**, the department of the deficiency no later than 24 hours after the deficiency is found.

(Eff. 10/1/99, Register 151; am 9/28/2001, Register 159; am 1/11/2006, Register 177; am 8/19/2006, Register 179; am 11/9/2006, Register 180; am 4/24/2009, Register 190; am

Register 221, April 2017 ENVIRONMENTAL CONSERVATION

7/25/2010, Register 195; am 5/20/2011, Register 198; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720  
AS 46.03.050

The section heading of 18 AAC 80.438 is changed to read:

**18 AAC 80.438. Renewal of approval for a sanitary survey inspector** [APPROVAL FOR RENEWAL].

The section heading of 18 AAC 80.439 is changed to read:

**18 AAC 80.439. Revocation of approval for a sanitary survey inspector.**

18 AAC 80.439(c) is amended to read:

(c) A sanitary survey inspector whose **approval** [CERTIFICATION] has been revoked under (a) of this section may not apply for **re-approval** [RE-CERTIFICATION] for 12 months after the date of revocation and must complete the requirements of 18 AAC 80.435(b). (Eff.

1/11/2006, Register 177; am 5/20/2011, Register 198; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720  
AS 46.03.050

18 AAC 80.440 is repealed:

**18 AAC 80.440. Standard sample volume.** Repealed. (Eff. 10/1/99, Register 151; repealed 2 / 11 / 2017, Register 221)

18 AAC 80 is amended by adding new sections to Article 4 to read:

**18 AAC 80.443. Level 1 assessment requirements.** (a) The requirements for a Level 1 assessment under 40 C.F.R. 141.859, adopted by reference in 18 AAC 80.010(a), apply to a public water system. In addition, the department will require the Level 1 assessment report submitted to the department by the owner or operator to

- (1) be completed on a current form provided, and in a format approved, by the department;
- (2) accurately describe the results of the Level 1 assessment; and
- (3) be signed by the person who conducted the assessment, subject to the report certification requirements of 18 AAC 80.1900.

(b) The requirements of 18 AAC 80.050 apply to a Level 1 assessment. (Eff.

2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020                      AS 46.03.710                      AS 46.03.720  
AS 46.03.050

**18 AAC 80.445. Level 2 assessment requirements.** (a) The requirements for a Level 2 assessment under 40 C.F.R. 141.859, adopted by reference in 18 AAC 80.010(a), apply to a public water system. In addition,

- (1) a person must be approved as a sanitary survey inspector under 18 AAC 80.435, 18 AAC 80.438, and 18 AAC 80.439, as appropriate, in order to conduct a Level 2 assessment inspection, complete a Level 2 assessment form, and submit a Level 2 assessment certification page to the department; the sanitary survey inspector who conducted the



Level 2 assessment shall sign the Level 2 assessment report, subject to the report certification requirements of 18 AAC 80.1900;

(2) an owner, operator, or employee of a public water system may not conduct a Level 2 assessment of that system, even if the person is an approved sanitary survey inspector;

(3) if an employee of the department conducts the Level 2 assessment, the owner shall pay a fee to the department as described in 18 AAC 80.1910(a)(1); and

(4) the Level 2 assessment report must

(A) be completed on a current form provided, and in a format approved, by the department; and

(B) accurately describe the results of the Level 2 inspection and assessment.

(b) The requirements of 18 AAC 80.050 apply to a Level 2 assessment. (Eff.

2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720

AS 46.03.050

18 AAC 80.655(a)(1) is amended to read:

(1) under 40 C.F.R. 141.74(b)(6)(i) and (c)(3)(i), allow disinfectant residual samples to be taken at points other than the total coliform sampling points described in **the sample siting plan required under 18 AAC 80.410** [18 AAC 80.400 – 18 AAC 80.425], if the department determines that those alternative points are more representative of disinfected water quality within the distribution system; to seek department approval under this paragraph for a system that uses groundwater combined with either surface water or GWUDISW, the owner



must submit a request for alternate sampling locations; the request must include the disinfectant residual sample siting plan approved by the department showing each proposed alternative sampling location, a narrative rationale for relocation of the sampling site, a description or ratio of flow of groundwater and surface water at the proposed location, the mixing zone pipe length, and the velocity of flow; as a condition for approval of an alternative sampling site, the department will require additional monitoring as the department considers necessary to verify that the disinfectant residual limit of 0.2 mg/l is being met at the approved location; if heterotrophic bacteria is measured instead of residual disinfectant concentration, it must be measured as heterotrophic plate count (HPC) under 40 C.F.R. 141.74(a), adopted by reference in 18 AAC 80.010(a);

(Eff. 10/1/99, Register 151; am 1/11/2006, Register 177; am 11/9/2006, Register 180; am 4/24/2009, Register 190; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 [AS 46.03.070] AS 46.03.720  
AS 46.03.050 AS 46.03.710

18 AAC 80.1103(5) is amended to read:

(5) analyses for total coliform[, FECAL COLIFORM,] and *Escherichia coli* required under **18 AAC 80.400 – 18 AAC 80.445** [18 AAC 80.400 – 18 AAC 80.440] must be conducted in accordance with **40 C.F.R. 141.852, 40 C.F.R. 141.858(b), and, if applicable, 40 C.F.R. 141.21(e)(2) and (f) as provided under 40 C.F.R. 141.21(h)** [40 C.F.R. 141.21(c)(2) AND (f)], **all** adopted by reference in 18 AAC 80.010(a);  
(Eff. 7/25/2010, Register 195; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.710 AS 46.03.720  
AS 46.03.050

18 AAC 80.1220(b)(2)(A) is amended to read:

(A) failure to submit to the department information required by this chapter, **including the information described under 40 C.F.R. 141.860(d), adopted by reference in 18 AAC 80.010(a):** two points;

18 AAC 80.1220(b)(4)(B) is amended to read:

(B) failure to monitor for coliform bacteria, as required under 18 AAC 80.405 **and described in 40 C.F.R. 141.860(c), adopted by reference in 18 AAC 80.010(a),** or to conduct nitrate and nitrite monitoring as required **under 18 AAC 80.315(b)(4) and (5)** [BY 18 AAC 80.315(b)(4) – (5)]: four points;

18 AAC 80.1220(b)(4)(E) is amended to read:

(E) failure to meet the MCL for a contaminant for which an MCL is set under 18 AAC 80.300 other than nitrate, nitrite, or total nitrate and nitrite as set out in 40 C.F.R. 141.62(b), adopted by reference in 18 AAC 80.010(a), and other than [TOTAL] coliform bacteria as set out in **40 C.F.R. 141.63(a) – (d)** [40 C.F.R. 141.63(a) - (b)], adopted by reference in 18 AAC 80.010(a): four points;

18 AAC 80.1220(b)(6)(D) is amended to read:

(D) failure to comply with a treatment technique requirement, **including**

**requirements described in 40 C.F.R. 141.860(b), adopted by reference in**

**18 AAC 80.010(a)**: six points;

18 AAC 80.1220(b)(6)(E) is amended to read:

(E) failure to meet the [MONTHLY COLIFORM] MCL **for coliform bacteria** set out in **40 C.F.R. 141.63(a) and (b)** [40 C.F.R. 141.63(a) – (b)], **or for Escherichia coli set out in 40 C.F.R. 141.63(c) and (d), both** adopted by reference in

18 AAC 80.010(a): six points;

(Eff. 9/21/2002, Register 163; am 1/11/2004, Register 169; am 5/2/2004, Register 170; am 1/11/2006, Register 177; am 4/24/2009, Register 190; am 8/20/2012, Register 203; am 2 / 11 / 2017, Register 221)

**Authority:** AS 46.03.020 AS 46.03.761 AS 46.03.850

18 AAC 80.1910(b)(4) is repealed:

(4) repealed 2 / 11 / 2017.

(Eff. 10/1/99, Register 151; am 3/25/2001, Register 157; am 9/28/2001, Register 159; am 7/11/2002, Register 163; am 1/11/2004, Register 169; am 5/2/2004, Register 170; am 1/11/2006, Register 177; am 4/24/2009, Register 190; am 7/25/2010, Register 195; am 2 / 11 / 2017, Register 221)

**Authority:** AS 44.46.025 AS 46.03.050 AS 46.03.720  
AS 46.03.020 AS 46.03.710

18 AAC 80.1990(a)(14) is repealed:

(14) repealed 2 / 11 / 2017;

18 AAC 80.1990(a)(17)(C) is amended to read:

(C) those organisms able to produce the enzyme beta-galactosidase which hydrolyzes substrate present in a chemically defined medium according to EPA approved methods listed in the *Manual for the Certification of Laboratories Analyzing Drinking Water*, adopted by reference in 18 AAC 80.010(b), and in accordance with **40 C.F.R. 141.852, adopted by reference in 18 AAC 80.010(a)** [40 C.F.R. 141.21(f)];

18 AAC 80.1990(a)(20) is amended to read:

(20) "community sewer line" **has the meaning given in 18 AAC 72.990**

[MEANS THAT PORTION OF A SEWERAGE SERVING

(A) ONE OR MORE MULTI-FAMILY DWELLINGS;

(B) A MOBILE HOME PARK, A TRAILER PARK, OR A

RECREATIONAL VEHICLE PARK;

(C) TWO OR MORE

(i) SINGLE-FAMILY HOMES OR DUPLEXES;

(ii) COMMERCIAL ESTABLISHMENTS;

(iii) INDUSTRIAL ESTABLISHMENTS; OR

(iv) INSTITUTIONS; OR

(D) A COMBINATION OF TWO OR MORE OF THE STRUCTURES

LISTED IN (C)(i) – (iv) OF THIS PARAGRAPH];

18 AAC 80.1990(a)(55) is repealed:

(55) repealed 2 / 11 / 2017;

18 AAC 80.1990(a)(108) is amended to read:

(108) "private water system" means a potable water system **that is not a public water system** [SERVING ONE SINGLE-FAMILY RESIDENCE OR DUPLEX];

18 AAC 80.1990(a)(111) is repealed and readopted to read:

(111) "public water system"

(A) means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if the system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year;

(B) is either a community water system or a non-community water system;

(C) includes

(i) any collection, treatment, storage, or distribution facilities, including a water haul vehicle, under control of the operator of the system and used primarily in connection with the system; and

(ii) any collection or pretreatment storage facilities not under control of the system operator that are used primarily in connection with the system;



(D) does not include a private water system;

18 AAC 80.1990(a)(125) is amended to read:

(125) "sampling site" means a location identified within [A DISTRIBUTION SYSTEM OF] a public water system where a water sample is collected for analysis;

18 AAC 80.1990(a)(126) is amended to read:

(126) "sanitary defect" **has the meaning given in 40 C.F.R. 141.2, adopted by reference in 18 AAC 80.010(a)** [MEANS A CONDITION THAT POSES A THREAT TO THE MICROBIOLOGICAL QUALITY OF WATER];

18 AAC 80.1990(a)(177) is amended to read:

(177) "corrective action"

(A) means an action taken to remedy

(i) a deficiency **or sanitary defect**; or

(ii) a direct, indirect, or potential cause, in whole or in part, of a risk to public health, regardless of whether that cause is a deficiency **or sanitary defect**;

(B) includes interim and final measures taken to remedy the deficiency, **sanitary defect**, or cause of a risk to public health;

18 AAC 80.1990(a) is amended by adding new paragraphs to read:

(181) "constructed conveyance"

(A) means, with respect to a public water system, any manmade conduit for water;

(B) includes ditches, culverts, waterways, flumes, mine drains, or canals;

(C) does not include a water haul vehicle or water that is delivered by bottle, other package unit, vending machine, or cooler;

(182) "Level 1 assessment" has the meaning given in 40 C.F.R. 141.2, adopted by reference in 18 AAC 80.010(a);

(183) "Level 2 assessment" has the meaning given in 40 C.F.R. 141.2, adopted by reference in 18 AAC 80.010(a);

(184) "seasonal system" has the meaning given in 40 C.F.R. 141.2, adopted by reference in 18 AAC 80.010(a).

(Eff. 10/1/99, Register 151; am 3/25/2001, Register 157; am 9/28/2001, Register 159; am 1/11/2004, Register 169; am 1/11/2006, Register 177; am 8/19/2006, Register 179; am 11/9/2006, Register 180; am 4/24/2009, Register 190; am 11/20/2009, Register 192; am 7/25/2010, Register 195; am 11/11/2010, Register 196; am 5/20/2011, Register 198; am 8/20/2012, Register 203; am 12/13/2014, Register 212; am 2 / 11 / 2017, Register 221.)

**Authority:** AS 46.03.010                      AS 46.03.050                      AS 46.03.720  
AS 46.03.020                      AS 46.03.710

# MEMORANDUM


State of Alaska  
Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: January 10, 2017

File No.: JU2016200194

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Re: Department of Environmental  
Conservation regulations re: drinking  
water, update of adopted-by-reference  
material, repeal of provisions  
regarding former "Class C" public  
water systems, and implementing the  
United States Environmental  
Protection Agency revised total  
coliform rule (RTCR) under 40 C.F.R.  
141.851 - 141.161 (18 AAC  
80.010(a); 18 AAC 80.015(e)(1);  
18 AAC 80.020(a), (c)(1); 18 AAC  
80.035(b); 18 AAC 80.050; 18 AAC  
80.055; 18 AAC 80.200(a), (h), (i), (j);  
18 AAC 80.205(c)(2); 18 AAC  
80.300(b)(4); 18 AAC 80.305(f);  
18 AAC 80.310(e)(2), (f); 18 AAC  
80.355(b); 18 AAC 80.400 - 18 AAC  
80.445; 18 AAC 80.655(a)(1);  
18 AAC 80.1103(5); 18 AAC  
80.1220(b); 18 AAC 80.1910(b)(4);  
18 AAC 80.1990(a))

We have reviewed the attached regulations from the Department of Environmental Conservation against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated January 9, 2017 from the Regulations Attorney. The regulations update adoptions-by-reference for the safe drinking water regulations, update those regulations to implement the United States Environmental Protection Agency (EPA) revised total coliform rule (RTCR) under 40 C.F.R. 141.851 - 141.861, repeal obsolete provisions regarding former "Class C" public water systems, and make conforming changes.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

Hon. Byron Mallott, Lieutenant Governor  
Our file: JU2016200194

January 10, 2017  
Page 2

The July 6, 2016 public notice and the January 5, 2017 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Though the attached regulations do not contain any handwritten corrections, we would like to call the publisher's attention to a manifest error in the *hard copy published* version of 18 AAC 80.205(c)(2), Table B. The red main pamphlet of the Alaska Administrative Code (Register 197, April 2011) contains a clerical error in one of the subheading rows: the long-obsolete "Class A" and "Class B" designations appear above two columns. Instead, "Community or Non-Transient Non-Community" should replace "Class A", and "Transient Non-Community" should replace "Class B". These changes were part of amendments that took effect April 24, 2009 (Register 190), and appear correctly in the grey supplement pamphlets for Registers 190 - 196. But when the red main pamphlet was replaced in April 2011 (Register 197), the changes did not make the transition to the main pamphlet. The department's attached regulations use the correct subheadings; note that the "Class C" column is to be deleted altogether as part of the attached regulations changes for this project repealing obsolete references to Class C public water systems. Also, the regulations as they appear in the electronic FOLIO database use the correct subheadings; only the publisher's print version needs the correction. Please let us know if you have any questions.

SCW

cc w/enc: (via email)

Hon. Larry Hartig, Commissioner  
Department of Environmental Conservation

Gary Mendivil, Regulations Contact  
Department of Environmental Conservation

Christina Carpenter, Director  
Division of Environmental Health  
Department of Environmental Conservation

Gloria Collins  
Division of Environmental Health  
Department of Environmental Conservation

Christopher D. Peloso, Assistant Attorney General  
Environmental Section

# MEMORANDUM

## State of Alaska Department of Law

TO: Hon. Byron Mallott  
Lieutenant Governor

DATE: January 9, 2017

FILE NO.: JU2016200194

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP*  
Chief Assistant Attorney General  
& Regulations Attorney  
Legislation/Regulations Section

SUBJECT: Specific delegation of authority regarding regulations review on Department of Environmental Conservation regulations re: drinking water, updating adopted-by-reference material, repealing provisions regarding former "Class C" public water systems, and implementing the United States Environmental Protection Agency's revised total coliform rule (RTCR) under 40 C.F.R. 141.851 - 141.861 (18 AAC 80.010(a); 18 AAC 80.015(e)(1); 18 AAC 80.020(a), (c)(1); 18 AAC 80.035(b); 18 AAC 80.050; 18 AAC 80.055; 18 AAC 80.200(a), (h), (i), (j); 18 AAC 80.205(c)(2); 18 AAC 80.300(b)(4); 18 AAC 80.305(f); 18 AAC 80.310(e)(2), (f); 18 AAC 80.355(b); 18 AAC 80.400 - 18 AAC 80.445; 18 AAC 80.655(a)(1); 18 AAC 80.1103(5); 18 AAC 80.1220(b); 18 AAC 80.1910(b)(4); 18 AAC 80.1990(a))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.



Hon. Byron Mallott, Lieutenant Governor  
Our file: JU2016200194

January 9, 2017  
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If you have questions, please let me know.

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cc w/enc: Scott C. Meriwether, AAC Coordinator  
Office of the Lieutenant Governor

Steven C. Weaver  
Sr. Assistant Attorney General &  
Assistant Regulations Attorney  
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGES ON PUBLIC WATER SYSTEMS  
IN THE REGULATIONS OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION

**BRIEF DESCRIPTION**

The Department of Environmental Conservation proposes to adopt by reference the federal Revised Total Coliform Rule, repeal the state's regulatory requirements for Class C public water systems, and revise the drinking water emergency preparedness regulations.

The Department of Environmental Conservation proposes to adopt regulation changes in 18 AAC 80 of the Alaska Administrative Code, dealing with Drinking Water, including the following:

- Repeal and readopt 18 AAC 80.010(a) adoptions by reference of the Code of Federal Regulations (CFR) to add the Revised Total Coliform Rule (RTCR), including related definitions; add alternative analytical methods for laboratory testing; reorganize and renumber the provisions to align numerically with the CFR citations; and update the CFR version dates to 2015.
- Amend 18 AAC 80.020, 18 AAC 80.200, and 18 AAC 80.205, and repeal 18 AAC 80.310(c), 18 AAC 80.1910(b)(4), and 18 AAC 80.1990(a)(14) to repeal the regulatory requirements for Class C Public Water Systems.
- Amend 18 AAC 80.055 on emergency preparedness requirements to change the submittal date of required documents, allow department waiver or revision of plan requirements for certain water systems, and allow an "authorized representative" to submit documents.
- Amend 18 AAC 80.310 on coliform sampling requirements for water haul systems and rain catchment systems.
- Amend 18 AAC 80.355 to update notification procedures.
- Amend 18 AAC 80 Article 4 on coliform bacteria requirements by adding new sections for the assessments requirements of RTCR.
- Amend 18 AAC 80.400 to clarify applicability of the requirements.
- Repeal and readopt 18 AAC 80.405, 18 AAC 80.410, 18 AAC 80.415, 18 AAC 80.420, and 18 AAC 80.425 to reflect the CFR adoption by reference of RTCR provisions and add clarifying details for routine monitoring, sample siting plans, repeat monitoring, coliform testing and laboratory reporting, and invalidation of total coliform samples.
- Amend 18 AAC 80.430, 18 AAC 80.438, and 18 AAC 80.439 to update and clarify requirements for sanitary surveys and sanitary survey inspectors.
- Repeal 18 AAC 80.440 on standard sample volume because standard sample volume is already included in a CFR provision adopted by reference.
- Amend 18 AAC 80.1990(a) by revising, adding, and repealing definitions related to RTCR and Class C public water systems, including revisions to definitions for "private water system" and "public water system."
- Other conforming changes that reflect the changes noted above and technical corrections to make the regulations internally consistent, including revising and clarifying wording, correcting and updating cross references, and deleting outdated Statutory Authority citations.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Gloria Collins, Regulations Specialist, Drinking Water Program, Department of Environmental Conservation, 555 Cordova Street, Anchorage, AK 99501. Additionally, the Department of Environmental Conservation will accept comments by electronic mail at [decehdw.publiccommentsregs@alaska.gov](mailto:decehdw.publiccommentsregs@alaska.gov). Alternatively, comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 4:30 p.m. on August 9, 2016

You may submit written questions relevant to the proposed action to Gloria Collins, Regulations Specialist, Drinking Water Program, Department of Environmental Conservation, 555 Cordova Street, Anchorage, AK 99501 or by e-mail to [gloria.collins@alaska.gov](mailto:gloria.collins@alaska.gov). The questions must be received at least 10 days before the end of the public comment period. The Department of Environmental Conservation will aggregate its response to substantially similar questions and make the questions and responses available on the Department of Environmental Conservation website at <http://dec.alaska.gov/eh/dw/index.htm>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Natalie Wolfe at (907) 269-0291 or TDD Relay Service 1-800-770-8973/TTY or dial 711 not later than July 29, 2016, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <http://aws.state.ak.us/OnlinePublicNotices/>, on the Department of Environmental Conservation website at <http://dec.alaska.gov/commish/regulations/index.htm>, or by contacting Kathy Blomquist by mail at the address above, by email at [kathy.blomquist@alaska.gov](mailto:kathy.blomquist@alaska.gov), or by phone at 907-269-3068.

After the public comment period ends, the Department of Environmental Conservation will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected.

**Statutory authority:** AS 44.46.020; AS 46.03.020

**Statutes being implemented, interpreted, or made specific:** AS 44.46.025; AS 46.03.010; AS 46.03.020; AS 46.03.050; AS 46.03.710; AS 46.03.720; AS 46.03.761; AS 46.03.850

**Fiscal information:** The proposed regulation changes are not expected to require an increased appropriation.

Date: July 1, 2016

  
\_\_\_\_\_  
Larry Hartig, Commissioner

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Environmental Conservation
2. General subject of regulation: Drinking Water Standards
3. Citation of regulation (may be grouped): 18 AAC 80
4. Department of Law file number, if any: JU2016200194
5. Reason for the proposed action:  
  

( X ) Compliance with federal law or action (identify): Revised Total Coliform Rule (RTCR) \_\_\_\_\_

( ) Compliance with new or changed state statute

( ) Compliance with federal or state court decision (identify): \_\_\_\_\_

( X ) Development of program standards

( ) Other (identify): \_\_\_\_\_
6. Appropriation/Allocation: Environmental Health Division, Drinking Water Program
7. Estimated annual cost to comply with the proposed action to:
  - a. Private Persons: The Revised Total Coliform Rule applies to public water systems, including systems owned by private persons. The Rule results in an annual cost increase for approximately 277 seasonal public water systems statewide that are not pressurized year-round. These systems must take one new coliform sample at the start of each operating season at an estimated cost of \$35 - \$100 per sample, not including shipping and handling charges. There are no other estimated annual costs that can be identified.

The repeal of Class C public water system regulatory requirements eliminates the one-time registration fee of \$75 for a new Class C system, as well as eliminating any other costs incurred by Class C water systems under 18 AAC 80, because these water systems are being classified as "private" water systems.
  - b. Another state agency: There are no identifiable costs.
  - c. Municipalities: Municipalities and local governments, including tribal governments, that own a public water system or a Class C water system have the potential to be affected as described under section "a" above (Private Persons), and they are included in the number of water systems noted under "a" as impacted by the Revised Total

Coliform Rule. Please refer to section "a" for the description of potential cost increases and cost savings along with their applicability.

8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>17</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/ program	\$ <u>0</u>	\$ <u>0</u>
Other (identify)	\$ <u>0</u>	\$ <u>0</u>

9. The name of the contact person for the regulation:

Name: Gloria Collins  
Title: Regulations Specialist  
Address: 555 Cordova St., Anchorage, AK 99501  
Telephone: 907-269-3075  
E-mail address: gloria.collins@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency  
☐ Federal government  
☐ General public  
☐ Petition for regulation change  
☐ Other (identify): \_\_\_\_\_

11. Date: July 1, 2016 Prepared by: \_\_\_\_\_ /s/\_\_\_\_\_  
Name: Jeff Warner  
Title: Environmental Program Manager  
Telephone: 907-269-7639



AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Gloria Collins, Regulations Specialist II, of the Department of Environmental Conservation, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 18 AAC 80, Drinking Water, concerning the requirements of the federal Revised Total Coliform Rule and the repeal of Class C Public Water Systems regulatory requirements, has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Resources Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

DATE: September 12, 2016  
Anchorage, Alaska

*Gloria Collins*

\_\_\_\_\_  
Gloria Collins, Regulations Specialist II

Subscribed and sworn to before me at 555 Cordova St., Anchorage, AK on  
September, 12, 2016

*[Signature]*

\_\_\_\_\_  
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Gloria Collins, Regulations Specialist II for the Department of Environmental Conservation, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Environmental Conservation has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Environmental Conservation regulation on Drinking Water.

DATE: September 12, 2016  
Anchorage, Alaska

Gloria Collins

Gloria Collins, Regulations Specialist II

Subscribed and sworn to before me at 555 Cordova St., Anchorage, AK on September 12, 2016.

[Signature]

Notary Public in and for the State of Alaska





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# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Emma Dunlap  
being first duly sworn on oath deposes and  
says that he/she is a representative of the  
Alaska Dispatch News, a daily newspaper.  
That said newspaper has been approved  
by the Third Judicial Court, Anchorage,  
Alaska, and it now and has been published  
in the English language continually as a  
daily newspaper in Anchorage, Alaska, and  
it is now and during all said time was  
printed in an office maintained at the  
aforesaid place of publication of said  
newspaper. That the annexed is a copy of  
an advertisement as it was published in  
regular issues (and not in supplemental  
form) of said newspaper on

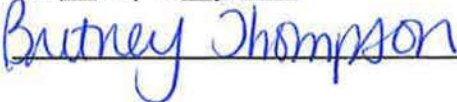
July 06, 2016

and that such newspaper was regularly  
distributed to its subscribers during all of  
said period. That the full amount of the fee  
charged for the foregoing publication is not  
in excess of the rate charged private  
individuals.

Signed



Subscribed and sworn to before me  
this 6th day of July, 2016



Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska  
MY COMMISSION EXPIRES



## NOTICE OF PROPOSED CHANGES ON PUBLIC WATER SYSTEMS IN THE REGULATIONS OF DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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