



ADMINISTRATIVE RULES OF MONTANA



37.110.267 CHAPTER 5: WATER, PLUMBING, AND WASTE

- (1) Additions have been made to paragraph 5-101.11(B) through section 5-103.12 of this chapter for public and nonpublic water systems.
- (2) A nonpublic water supply system must meet the requirements of Food and Consumer Safety (FCS) Circular 1-2012 when:
 - (a) the water supply is constructed after the effective date of this rule;
 - (b) significant modifications are made to the water system; or
 - (c) the local regulatory authority determines compliance with FCS Circular 1-2012 is necessary to meet the requirements of this subchapter.
- (3) An establishment using a nonpublic water supply system must have drinking water samples analyzed for coliform bacteria as follows:
 - (a) Sampling for coliform bacteria must be done before initial licensing, and at least in two separate months of each calendar year that the establishment operates.
 - (b) The sampling schedule must include collection when the water source is most likely to be contaminated, such as during April through June, September through October, during high, ground-water season, or as directed by the local regulatory authority.
 - (c) The local regulatory authority may require the establishment to sample:
 - (i) monthly;
 - (ii) in months the establishment operates; or
 - (iii) if an inspection, sampling results, or an event indicates the water source is at high risk of contamination.
 - (d) The local regulatory authority may return the establishment to the sampling frequency stated in (3)(a), if an examination of the drinking water system by the local regulatory authority indicates the system is no longer at high risk of contamination.
- (4) An establishment using a nonpublic water supply system must have a water sample analyzed for total nitrates before initial licensing and at least every three years the establishment is operating.
- (5) After shock disinfection of the system, a sample for coliform bacteria must be collected for analysis three to five days after the disinfectant is no longer detected in the system.
- (6) Water samples must be analyzed by a laboratory licensed and certified for drinking water analysis by the state of Montana.

- (7) The establishment must report water sampling test results to the local regulatory authority in a format acceptable to the local regulatory authority within five days of receiving the results, except as required in (9)(c) and (11)(d).
- (8) The establishment must keep test results readily available for inspection purposes on the premises of the licensed establishment for at least five years.
- (9) If coliform bacteria are detected in a nonpublic water system routine sample, the establishment must:
 - (a) collect at least four additional or repeat samples within 24 hours of notification of the contamination at the following system locations:
 - (i) site of the original contaminated routine sample;
 - (ii) upstream from the contaminated routine sample;
 - (iii) downstream from the contaminated routine sample; and
 - (iv) at the source of the drinking water supply system, before the distribution plumbing; or
 - (v) as directed by the local regulatory authority.
 - (b) collect at least five samples during the month following a detection of coliform bacteria in any routine sample; and
 - (c) notify the local regulatory authority of the test results within 48 hours of receiving them.
- (10) If coliform bacteria are detected in a repeat sample, the establishment must:
 - (a) take appropriate corrective action to eliminate the condition causing the positive test results; and
 - (b) post an advisory sign or placard regarding the test results in a conspicuous place for public viewing at each point of entry, or as directed by the local regulatory authority.
- (11) If fecal coliform bacteria, *Escherichia coli*, or both are detected in a routine sample or repeat sample, the establishment must:
 - (a) immediately stop using the water source;
 - (b) provide a temporary source of safe water in accordance with (17);
 - (c) implement appropriate corrective actions; and
 - (d) notify the local regulatory authority of the test results within 24 hours of receiving them.
- (12) If an establishment with a public or nonpublic water supply fails to take the required samples following the detection of coliform bacteria, or the laboratory fails to test for fecal coliform bacteria or *Escherichia coli* in coliform positive samples, the establishment must follow corrective actions as specified in (13).
- (13) For nonpublic water systems, appropriate corrective actions must be implemented in a timely manner to eliminate the condition or conditions that resulted in the positive test result(s), which may include shock disinfection of the entire water system and replacement or repair of the water system by a date set by the local regulatory authority when:

- (a) a water sample exceeds a maximum contaminant level as specified in ARM Title 17, chapter 38, subchapter 2;
 - (b) the water system does not have the capacity to provide the quantity needed for drinking, food processing, personal hygiene, or cleaning;
 - (c) after examination of the water system, the local regulatory authority provides a written report to the operator or person-in-charge that the water system is at high risk of contamination;
 - (d) a pathogenic microorganism is detected in a sample; or
 - (e) a confirmed disease outbreak is linked with the water system.
- (14) When a water system is replaced or repaired, the water system must be shock disinfected before the system is placed into service.
- (15) The local regulatory authority will issue a restricted-use order to an establishment using a nonpublic water supply when:
- (a) fecal coliform or *Escherichia coli* is detected in a nonpublic water system sample;
 - (b) total nitrate level is greater than 10 milligrams per liter in a nonpublic water system sample;
 - (c) maximum contaminant levels exceed parameters specified in ARM Title 17, chapter 38, subchapter 2;
 - (d) a pathogenic microorganism is detected; or
 - (e) a confirmed disease outbreak is linked with the water system.
- (16) An establishment with a public or nonpublic water supply subject to a restricted-use order must provide and use a temporary source of potable water as described in (17) for consumers and staff for drinking, food processing, personal hygiene and cleaning, or immediately discontinue operations.
- (17) With approval from the local regulatory authority, an establishment with a public or nonpublic water supply may provide potable water on a temporary basis using one or more of the following:
- (a) bottled or packaged potable water from a department-licensed wholesale or retail food establishment, if the water is dispensed directly from the original container;
 - (b) water from a Department of Environmental Quality (DEQ)-approved public water supply that meets the requirements of ARM Title 17, chapter 38, subchapters 1, 2, 3, and 5, stored in a clean, sanitized, and covered potable water container or holding tank;
 - (c) water delivered by a department-licensed potable water hauler;
 - (d) if the water is contaminated with fecal coliform bacteria or *Escherichia coli*, water that has been boiled for at least one minute, and stored and served from a clean, sanitized, and covered container; or
 - (e) other source approved by the local regulatory authority.
- (18) If the local regulatory authority determines that boiling water will not provide adequate potable water, it may require an establishment with a public or nonpublic water supply to use another approved method for supplying water.

- (19) An establishment with a public or nonpublic water supply that is subject to a restricted-use order must post an advisory sign or placard regarding the restricted-use order in a conspicuous place for public viewing at each point of entry, or as directed by the local regulatory authority.
- (20) A public or nonpublic water supply under a restricted-use order may not be used to make ice for food or beverages.
- (21) An establishment with a public or nonpublic water supply that is subject to a restricted-use order may wash, rinse, and sanitize dishes, utensils, and equipment using the affected water system, if using an approved chemical disinfectant or dish machine that reaches 180 degrees Fahrenheit (82 degrees Celsius) during the final rinse cycle, or as directed by the local regulatory authority.
- (22) A restricted-use order on a public or nonpublic water supply may be cancelled by the local regulatory authority after:
 - (a) Laboratory sampling demonstrates that the water supply is safe;
 - (b) Water system plumbing is completely flushed with cold water for at least five minutes; and
 - (c) Food-contact surfaces and equipment directly and indirectly connected to the water system must be cleaned and sanitized prior to use including, but not limited to: post-mix carbonated beverage machines, spray misters, coffee makers, tea urns, ice machines, glass washers, and dish machines.
- (23) Additions have been made to section 5-303 of this chapter that may apply to public or nonpublic water supplies.
- (24) Every mobile food establishment must be equipped with a gravity or pressurized water storage tank.
- (25) The water storage tank, or tanks, in a mobile food establishment must be of adequate capacity, as required in section 5-103.11 (A), but no smaller than the following:
 - (a) a mobile food establishment that serves beverages or food or reheats processed foods must have a water storage tank, or tanks, with a capacity of at least 38 liters (10 gallons) for food employee handwashing;
 - (b) a food pushcart must have a water storage tank, or tanks, with a minimum capacity of 19 liters (5 gallons) for handwashing; and
 - (c) a mobile food establishment that processes food or beverages must have a water storage tank, or tanks, with a capacity of at least 151 liters (40 gallons) for handwashing, utensil washing, and sanitizing purposes.

Authorizing statute(s): 50-50-103, MCA

Implementing statute(s): 50-50-103, MCA

History: NEW, 2014 MAR p. 2957, Eff. 1/1/15.