

CHAPTER 33.1-23-02
ENVIRONMENTAL LABORATORY CERTIFICATION PROGRAM

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33.1-23-02-02. Definitions.

In this article, unless the context otherwise requires, the following definitions apply:

1. "Analyte" means the chemical substance, physical property, or organism determined in a sample.
2. "Analyte group" means a set of analytes that can be determined using the same method or technology.
3. "Biosolids" means sewage sludge or a solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids includes domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
4. "Certified laboratory" means a laboratory that has a valid certification issued by the department.

5. "Client" means an entity that has arranged with a laboratory to perform tests and analyses to meet the requirements of a department issued permit or another department program or regulatory requirement.
6. "Coal Combustion Residual Rule" means the sampling and analysis requirements under title 40 Code of Federal Regulations, part 257 and appendices III and IV to part 257.
7. "Department" means the North Dakota department of environmental quality.
8. "Department program" means a program or rule administered by the department which requires submission of data for compliance reporting purposes that must come from a certified laboratory.
9. "Field of testing" means the combination of analyte, method, matrix, and program for which a laboratory may hold accreditation or certification.
10. "Initial application" means an application submitted by a laboratory that either has never had certification or has not met the requirements and qualifications for either a renewal or revised application.
11. "Laboratory" means a facility that performs analyses on potable water, nonpotable water, a hazardous liquid, or solid matrix.
12. "Manual for the Certification of Laboratories Analyzing Drinking Water" means the environmental protection agency publication "Manual for the Certification of Laboratories Analyzing Drinking Water", 5th edition and including supplement 1 to the 5th edition of the "Manual for the Certification of Laboratories Analyzing Drinking Water" and supplement 2 to the 5th edition of the "Manual for the Certification of Laboratories Analyzing Drinking Water".
13. "Method" means an environmental protection agency promulgated or environmental protection agency accepted published scientific technique for performing a specific measurement. Method includes instructions for sample preparation, sample preservation, and sample analysis.
14. "Method defined parameter" means parameters that are physical or chemical properties of materials determined with specific methods used to evaluate whether the materials comply with certain Resource Conservation and Recovery Act of 1976, 42 U.S.C. section 6901 et seq., subtitle C regulations.
15. "National Primary Drinking Water Regulations" means the federal program authorized under title 40 Code of Federal Regulations, part 141, section 141.1 et seq.
16. "National pollutant discharge elimination system" means the federal program authorized under title 40 Code of Federal Regulations, part 136, section 136.1 et seq.
17. "Nonpotable water" means water not suitable for drinking. It is a matrix in the Clean Water Act Program, the Resource Conservation and Recovery Act program and the Coal Combustion Residuals Rule program.
18. "North Dakota Environmental Laboratory Certification Program Manual" means the manual used by the environmental laboratory certification program for chemistry parameters. It is available on the department's website and is the Rev. November 2019 edition.
19. "Parameter" means the chemical substance, physical property, or organism being determined.
20. "Point value" means the numerical increments which represent the amount necessary to cover costs of reviewing applications, issuing certifications, conducting laboratory evaluations,

training, collecting fees, and providing compliance assistance and other anticipated costs of administering the environmental laboratory certification program.

21. "Potable water" means water suitable for drinking. It is the matrix in the Safe Drinking Water Act program.
22. "Proficiency test" means the process of testing and reporting of test results performed by a laboratory for a specific analyte or analyte group to determine the ability of a laboratory to employ applicable analytical methods and to produce an accurate measurement of the concentration of the analyte or analyte group in the sample.
23. "Reciprocal certification" means a reciprocal or secondary certification that is based on a primary certification.
24. "Renewal application" means an application submitted by a laboratory to renew an existing certification.
25. "Reporting limit" means the lowest level of an analyte that can be accurately recovered from the matrix of interest. This limit is equivalent to a level of quantitation.
26. "Resource Conservation and Recovery Act" means the federal law found under 42 U.S.C. section 6901 et seq. (1976) and its corresponding regulations found under title 40, Code of Federal Regulations, parts 239 through 282.
27. "Revised application" means an application that is submitted to make changes to an existing certification.
28. "SW-846" means the environmental protection agency guidance for using the "Test Methods for Evaluation Solid Waste: Physical/Chemical Methods", Publication SW-846, United States environmental protection department (2019). This guidance consists of three main parts: chapters, methods, and supporting documents and is the environmental protection agency SW-846 compendium.
29. "Test methods for evaluating solid waste: physical/chemical methods" means the environmental protection agency publication also known as SW-846.

History: Effective July 1, 2020. [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-03. General requirements for required methods.

The analytical methods, sample collection, and preservation procedures used to analyze samples for programs required by a federal agency must meet the requirements specified in the relevant parts of the Code of Federal Regulations as stated herein. The laboratory's analytical methods, sample collection, and preservation procedures also must meet the requirements specified by the department program. Certification requirements are based on the analysis of regulated parameters by promulgated methods unless otherwise specified or required by a department program.

History: Effective July 1, 2020. [January 1, 2022](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-04. Biosolids program methods.

For analysis of sewage sludge samples required by state and federal rules, laboratories shall use the methods and test procedures in title 40, Code of Federal Regulations, part 503, and publication SW-846.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-05. Clean Water Act program methods.

For analysis of water or wastewater samples required by state and federal clean water rules, laboratories shall use the methods and test procedures in title 40, Code of Federal Regulations, part 136.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-06. Coal Combustion Residuals Rule program methods.

For analysis of water or wastewater samples required by state and federal coal combustion residuals in landfills and surface impoundments rules and regulations as amended, laboratories shall use methods appropriate for groundwater sampling and that accurately measure hazardous constituents and other monitoring parameters in groundwater samples. Metals analysis must be for "total recoverable" concentrations. Parameters are found at appendix III to part 257 and appendix IV to part 257.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-07. Nonpotable water program methods.

For analysis of water or wastewater samples as requested by the department or to support studies of specific industries or for use in broad national surveys, laboratories shall use validated methods and test procedures. Environmental protection agency methods are preferred but other state approved and validated methods may be acceptable.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-08. Potable water program methods.

For analysis of suitable drinking water samples as requested by the department or to support studies of specific industries or for use in broad national surveys, laboratories shall use validated methods and test procedures. Environmental protection agency methods are preferred, but other state approved and validated methods may be acceptable.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-10. Safe Drinking Water Act program methods.

For analysis of drinking water samples required by state and federal Safe Drinking Water Act rules, laboratories shall use the methods and test procedures in title 40 Code of Federal Regulations, part 141. Laboratories also shall comply with the "Manual for the Certification of Laboratories Analyzing Drinking Water" requirements.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14

33.1-23-02-11. Alternate methods.

Provisions for the use of alternate methods to be used in the Safe Drinking Water Act program and the Clean Water Act program are found within the corresponding federal laws and regulations. A laboratory may request approval for alternate methods by following the instructions provided in the appropriate sections of the federal laws and regulations for the Clean Water Act program and the Safe Drinking Water Act program.

History: Effective July 1, 2020., [January 1, 2022.](#)

General Authority: NDCC 23.1-01-14

Law Implemented: NDCC 23.1-01-14