

**OAR CHAPTER 333**  
**Division 061-0061**  
**Public Water Systems**  
**Effective 2-15-2008**

**333-061-0061 Capacity Requirements for Public Water Systems**

- (1) Water system capacity is defined as the technical, managerial, and financial capability of the water system necessary to plan for, achieve, and maintain compliance with applicable drinking water standards.
- (2) Capacity requirements for new public water systems.
  - (a) Any new community, non-transient non-community, or transient non-community public water system commencing operations on or after October 1, 1999, must meet the applicable requirements in this rule prior to serving drinking water to the public. The owner of such water system shall submit evidence of meeting all applicable requirements to the Department for review and shall commence operation only after Department approval. This rule does not apply to water systems that were built and operating prior to October 1, 1999.
  - (b) Requirements for Technical Capacity
    - (A) The water system must comply with the local land use requirements of OAR 333-061-0062, including submission to the Department of evidence of approval by the local land use authority.
    - (B) The water system must comply with plan submission and review requirements of OAR 333-061-0060, and plans submitted must comply with construction standards in OAR 333-061-0050.
    - (C) The owner of a new water system must demonstrate a valid water right permit as required and prescribed by the Oregon Water Resources Department (ORS Chapter 537).
    - (D) The water system must submit initial water quality test results demonstrating compliance with applicable Maximum Contaminant Levels (OAR 333-061-0030), and applicable treatment requirements and performance standards (OAR 333-061-0032 and 0034).
    - (E) Community water systems shall have water use meters installed at all service connections.

- (F) Community water systems with 300 or more service connections shall have a master plan meeting the requirements of OAR 333-061-0060.
- (c) Requirements for Managerial Capacity
  - (A) Community and non-transient non-community water systems must employ or contract for the services of a certified operator as required by OAR 333-061-0225.
  - (B) Community water systems within areas of Oregon where State or Federally listed sensitive, threatened or endangered fish species are located, shall consult with the Oregon Water Resources Department. If required by the Oregon Water Resources Department, community water systems shall have water management and conservation plans meeting the requirements of Oregon Water Resources Department OAR 690-86-0010 through 0920.
- (d) Requirements for Financial Capacity. The water system must establish a water rate structure and billing procedure, or alternate financial plan, to assure that funds are collected and available to meet the anticipated operation, maintenance, and replacement costs of the water system.
- (3) Capacity requirements for public water systems applying for a loan from the Drinking Water State Revolving Loan Fund.
  - (a) All public water systems qualifying for a Drinking Water State Revolving Fund loan must receive a capacity assessment for technical and managerial capacity from the Department, and financial capacity from the Oregon Economic & Community Development Department through the loan application process, prior to contract execution.
  - (b) All deficiencies identified in the capacity assessment must be corrected such that:
    - (A) Those deficiencies identified in the capacity assessment as major deficiencies must be corrected prior to contract execution. Major deficiencies include but are not limited to the following:
      - (i) Under technical capacity, major infrastructure deficiencies identified in the sanitary survey and not corrected as a part of this project or identified as a deficiency under paragraph (E) of this subsection; or
      - (ii) Under managerial capacity, no certified operator and no contract or agreement for operator services from another water system or management agency; or

- (iii) Under financial capacity, inappropriate financial statements, lack of a capital financing program, or an inadequate rate structure to cover necessary system operation, debt service, or capital replacement.
- (B) Those deficiencies identified in the capacity assessment as loan conditions must be corrected as a part of the contract prior to contract completion or on a schedule set and/or approved and tracked by the Department or its designee. Loan condition deficiencies are deficiencies which may take considerable staff or contractor time and possibly some funding to correct. Loan condition deficiencies include but are not limited to the following:
  - (i) Under technical capacity, inadequate or no water rights, incomplete installation of water use meters, incomplete or no engineering drawings of the water system, out-of-date or no master plan, or incomplete or no plan review on prior construction projects; or
  - (ii) Under managerial capacity, having an operator at a lower level than required in responsible charge of the water system, no written emergency response plan, no written water conservation program if required by the Water Resources Department under OAR 690-086-0010 through 690-086-0920, no written water system operations manual, or no cross connection program.
- (C) Those deficiencies identified in the capacity assessment as short term deficiencies must be corrected prior to contract completion and will be tracked by the Department. Short term deficiencies are deficiencies which can be quickly corrected with additional staff attention. Short term deficiencies include but are not limited to the following:
  - (i) Under technical capacity, water quality monitoring is incomplete, no coliform sample plan or site map, or no written water quality monitoring plan; or
  - (ii) Under managerial capacity, no annual cross connection summary report if required, or no consumer confidence report if required.
- (D) Those deficiencies identified in the capacity assessment as corrected with the project will be considered by the Department as corrected with contract completion.

- (E) All other deficiencies identified in the capacity assessment must be identified and established as a future construction project in the water system master plan, feasibility study, or other such document in order to be considered by the Department as corrected in the future.
  - (c) Funding to correct a deficiency identified as a loan condition under paragraph (b)(B) of this section may be included as part of the project contract under the Drinking Water State Revolving Fund, if that part of the project to correct the deficiency qualifies under the terms of the Drinking Water State Revolving Fund.
- (4) Capacity requirements for other public water systems.
- (a) All community, non-transient non-community, and transient non-community public water systems will receive capacity assessments conducted by or with the assistance of the Department.
    - (A) The capacity assessment consists of a written report identifying deficiencies in technical, managerial, and financial capacity, and a letter listing recommendations to correct the deficiencies. The findings of the capacity assessment and recommendations for correction will be presented to the management of the water system at a regular or special meeting.
    - (B) The frequency of capacity assessments for a public water system, as described in this subsection, is dependent on the risk to human health as determined by the Department.
    - (C) The recommendations for correction of deficiencies identified in capacity assessments are, or, become requirements for any public water system, as described in this subsection, with multiple violations of the drinking water standards, in significant non-compliance with the drinking water standards, or an Administrative Order issued by the Department.