

Topic: Is plan review required when a water system is reopened after inactivity?

Date: September 2015 ks, BKD

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Rule: OAR 333-061-0050(1)(b) and ORS 448.131(3) and (5)

Issue: Is plan review required when a recognized public water system is going to be reopened after being inactive for any amount of time?

**Decision: No. Plan review is only required for facilities at existing water systems when a water system initially becomes a public water system, if after 1981 or when new facilities are added. If a water system is closed or inactivated but not modified in any way, Drinking Water Services (DWS) does not have the authority to ensure construction standards are met for facilities where plan review was not required previously.**

**For example, if a water system opened before 1981, DWS cannot apply construction standards adopted after that date unless the particular standard is listed as a significant deficiency in OAR 333-061-0076 or a MCL is being exceeded. Similarly, if a water system was opened in 2014, only the construction standards in place in 2014 can be applied even if the water system is closed from 2017 to 2018. The water system's operational records and monitoring history should be reviewed to determine if a MCL is being exceeded in these cases.**

**If a water system is closed and reopened, a sanitary survey should be scheduled as soon as possible after reopening to determine if there are any significant deficiencies or other pathways to contamination that must be corrected.**

Rationale: ORS 448.131(5) states that the Authority is not authorized to require alteration of existing facilities unless the alteration is necessary to insure safe drinking water. The statute was previously interpreted as meaning plan review was required when a public water system was closed for more than one year but this interpretation was reversed in 2010 after consultation with the Department of Justice and the rule language based on the earlier interpretation removed from OAR 333-061-0050.

For public water systems having been operated previously, plan review would have been conducted to ensure facilities met the construction standards in place at the time of construction. For a water system opened after 1981 but never inventoried, the plan review process should ensure facilities meet the standards in place at the time of construction.

A common scenario is that a well log doesn't exist or there are setback issues when a water system is reopened after a period of inactivity. Plan review will not be required for these issues if there are no water quality issues and pathways to contamination will be resolved through the survey process and water quality issues arising later will be discovered through sampling.