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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333  
OREGON HEALTH AUTHORITY  
PUBLIC HEALTH DIVISION

**FILED**

10/28/2021 11:03 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Updated water system emergency planning requirements

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/30/2021 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

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Portland, OR 97232

Filed By:  
Public Health Division  
Rules Coordinator

HEARING(S)

*Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.*

DATE: 11/18/2021

TIME: 11:00 AM

OFFICER: Staff

ADDRESS: Microsoft Teams - Video/conference call

Due to COVID-19 the PSOB is not open to  
the public & meetings are held remotely  
Portland, OR 97232

SPECIAL INSTRUCTIONS:

Due to COVID-19, public meetings are  
being held remotely. To provide oral  
testimony during this hearing, please  
contact publichealth.rules@dhsosha.state.or.us  
to sign-up and receive the link for the  
Microsoft Teams video conference.  
Alternatively, you may dial 971-277-  
2343, Phone conference ID 679 229 779# for audio only.

NEED FOR THE RULE(S)

To maintain consistency with the American Water Infrastructure Act so that public water systems do not have to have two emergency response plans to meet different requirements of different agencies, and to improve requirements for water system emergency planning.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

OAR chapter 333, division 061 and ORS chapter 448 are available for inspection at the Oregon Health Authority, Drinking Water 0405.

Oregon Administrative Rules and Oregon Revised Statutes are also available on the web at: OAR 333-061: <http://arcweb.sos.state.or.us/arcweb/arcweb.cfm?rule=333-061>  
[https://www.oregonlegislature.gov/bills\\_laws/ors/ors448.html](https://www.oregonlegislature.gov/bills_laws/ors/ors448.html).

The American Water Infrastructure Act and related information can be viewed on the web at: <https://www.epa.gov/waterresiliency/american-water-infrastructure-act>  
2013#:~:text=America%27s%20Water%20Infrastructure%20Act%3A%20Risk%20Assessments%20and%20Emergency,update

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#### FISCAL AND ECONOMIC IMPACT:

There is little anticipated fiscal impact due to the proposed rule amendments because documents and procedures may be revised during routine updates. Emergency planning will no longer be required for some water systems while revised plans and procedures may be required for other systems. For water suppliers required to revise emergency plans, water system personnel may need to commit more time to that process than would have otherwise been necessary.

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#### COST OF COMPLIANCE:

*(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).*

(1) The proposed rule amendment is not expected to impact regulatory officials and there is no anticipated cost of compliance impact on state agencies or units of local government. The proposed rule amendment has no direct cost to the public.

(2)(a) Some public water systems are operated by small businesses, including mobile home parks, recreational vehicle parks, private campgrounds, restaurants, tourist accommodations, stores, and workplaces.

Approximately 700 public water systems are operated as small businesses.

(b) The proposed amendment may require administrative activities when water system personnel for community water systems update existing emergency response plans. Emergency response plans will no longer be required for transient and non-transient non-community water systems, and administrative activities related to those water systems may be reduced.

(c) The proposed amendment is not expected to require any additional equipment or supplies. Labor or administrative costs for personnel at community water systems may increase by a small amount if emergency response plans must be updated. Potential administrative costs related to updating emergency response plans are only expected once, after which, updating plans would occur as necessary as required by existing rule text.

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#### DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Drinking Water Advisory Committee, which includes representatives for certified water system operators and privately-owned public water systems, has reviewed the proposed rule and related rulemaking documents, including this Statement of Need and Fiscal Impact form.

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#### WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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AMEND: 333-061-0064

RULE SUMMARY: Amend OAR 333-061-0064: The Emergency Response Plan Requirements rule was amended primarily for consistency with the American Water Infrastructure Act.

CHANGES TO RULE:

333-061-0064

Emergency Response Plan Requirements ¶¶

~~All public water systems shall~~ Water suppliers must maintain a current emergency response plan.¶¶

~~(1) The for emergency response plan shall be reviewed and updated at least every five years. If a publicly community and NTNC water system. Water system staff must be instructed and trained in the use of the plan and the plan must be accessible at all times to all water system applying for funds from the Safe Drinking Water Revolving Loan Fund Program is required to develop a staff for use during emergencies.¶¶~~

~~(1) At community water systems serving 3,300 or fewer people and NTNC water systems, the emergency response plan as a part of a capacity assessment, then the emergency response plan is required to be completed before final payout of the loan.¶¶~~

~~(2) All public water systems shall complete a security vulnerability assessment and develop a prioritized plan for must include procedures for reasonably anticipated emergencies.¶¶~~

~~(a) These procedures must include, but are not limited to: a plan for physical security measures, procedures to isolate all parts of the water system and procedures for emergency disinfection. There must also be a procedure for issuing a boil water or do not drink reduction.¶¶~~

~~(3) As evidence of completion, advisory to water system customers in the event of:¶¶~~

~~(A) Loss of electrical public water systems shall submit a stower;¶¶~~

~~(B) Loss of pressure in the water distribution system;¶¶~~

~~(C) Disruption or failure of disinfection or other treatment to the Authority certifying that the Emergency Response Plan and vulnerability assessment have been completed according to the requirements of this rule and that staff have been instructed in the ussystems; or¶¶~~

~~(D) Detection of E. coli bacteria or another contaminant exceeding the MCL.¶¶~~

~~(b) If computer networks or automated control systems operate or monitor processes at the water system, water suppliers must implement cybersecurity measures to prevent attacks on process controls including but not limited to: establishing strong password policies, automating software updates, monitoring for suspicious activity, and installing and updating antivirus or anti-malware of the emergency response plan. The emergency response plan/vulnerability assessment shall be made available for review by the Authority or the County Health Department. All Ctware.¶¶~~

~~(c) Water suppliers must have a procedure to coordinate with local emergency management agencies in the event of an emergency event that overwhelms the water system staff's ability to respond.¶¶~~

~~(2) At community water systems >serving more than 3,300 population are required to submit a copy of their Vulnerability Assessment and certification of completion for their Ele, water suppliers must complete a risk and resilience assessment in addition to maintaining an emergency response plan. Both emergency Rresponse Pplans and Vulnerability Assessment to EPA as required in the federal Bioterrorism Preparedness and Response Act of 2002. risk and resilience assessments must be updated at least every five years.¶¶~~

~~(a) The risk and resilience assessment must include:¶¶~~

~~(4A) Community water systems shall coordinate with the lead County Emergency Coordinator when preparing or revising an emergency response plan.¶¶~~

~~(5) The emergency response plan shallThe risks to the water system from malevolent acts and natural hazards.¶¶~~

~~(B) The resilience of the water system infrastructure, includeing but is not limited to the following elements:¶¶~~

~~(a) Communications and authority.¶¶~~

~~(A) Develop an emergency contacts list, and review and update this list at least annually.¶¶~~

~~(B) Decision-making author: pipes, constructed conveyances, physical barriers, water sources, water collection or intake facilities, pretreatment or treatment facilities, storage and distribution facilities, and responsibilities of welectronic, computer or other automaterd system personnel shall be determined and details (including the security of such systems) which are utilized inat the emergency response plansystem.¶¶~~

~~(C) The water quality monitoring practices at the system.¶¶~~

~~(CD) Procedure for notification of agencies, the water users, and the local media.¶¶~~

~~(b) Water system security. Public water systems shall develop a security program. The security program shall include, but is not limited to, the following components: security management, The financial infrastructure for the system, such as business continuity or rate setting.¶¶~~

~~(E) The use, storage, or handling of any chemicals by the system.¶¶~~

~~(F) The operation and maintenance of the water system.¶¶~~

~~(b) The emergency response plan must incorporate the findings of the risk and resilience assessment and also:¶¶~~

~~(A) Include strategies and resources to improve the resilience of the system, including the physical activity, physical security, chemical storage and use, personnel, computer syssecurity and cybersecurity of the system.¶¶~~

(B) Include plans and procedures that can be implemented, and program evaluation as defined to identify equipment that can be utilized, in the State Model Emergency Response Plan.

(c) Water system hazard review.

(A) Public water systems shall conduct an inspection of the water system annually to identify the hazards that could affect the water system.

(B) Public water systems shall correct construction deficiencies to eliminate hazards or potential hazards, correct major sanitary survey deficiencies as determined by the Authority, and prevent of a malevolent act or natural hazard that threatens the ability of the water system to deliver safe drinking water. These plans and procedures must include but are not limited to:

(i) Descriptions for how to isolate all parts of the water system, including actions and procedures which can render harmless or significantly lessen the impact of malevolent acts or natural hazards upon public health and safety and the supply of safe drinking water.

(ii) Emergency disinfection procedures, the process for issuing a boil water advisory, and the process for regular maintenance.

(d) Emergency equipment and water supplies.

(A) Public water systems shall make provisions for an auxiliary power supply if not a gravity system, and redundant equipment for critical components. Community water systems shall identify equipment that can be utilized in the event of an intentional attack responding to a waterborne disease outbreak.

(iii) Response procedures for events involving high-risk contaminant sources or activities as identified in the water system's source water assessment within the following areas:

(I) A one-year time-of-travel for wells or zone 1 for springs for groundwater sources with a delineated drinking water source area.

(II) Within a 500 ft. radius of a groundwater well, spring, or infiltration gallery without a delineated drinking water source area.

(III) An eight-hour time-of-travel or an area within the eight-hour time-of-travel that captures high risk sources based on sensitive area information in the source water assessment for surface water sources.

(C) Identify actions, procedures and equipment which can render harmless or significantly lessen the impact of the attack on the natural hazard upon public health and safety and the supply of public safe drinking water.

(B) Public water systems shall develop a plan for emergency water to include the rate to communities and individuals, including the development of alternative source water options, relocation of water intakes and construction of drinking water, identifying and utilizing alternative drinking water sources and supplies, and alternative distribution of drinking water.

(e) Emergency response procedures flood protection barriers; and

(i) Make provisions for an auxiliary power supply and provide for redundant equipment for critical components.

(ii) Identify and develop plans for utilizing alternative drinking water sources and supplies.

(iii) Develop plans for water rationing.

(iv) Develop a plan for emergency provision of water.

(AD) Public water system shall develop procedure will aid in the detection of malevolent acts for responding to emergencies most likely to strike the water system. Community natural hazards that threaten the security or resilience of the water system.

(E) Describe communications and authority used by water systems shall develop plans and procedures that can be implemented, including but not limited into the event of a terrorist or other intentional attack on the water system.

(B) The emergency response plan shall describe procedures to isolate all parts of the water system. Community water systems shall develop actions and procedures which can render harmless or significantly lessen the impact of terrorist attacks or other intentional actions on public health and safety and supply of public drinking water.

(C) The emergency response plan shall describe the emergency disinfection procedure, process for issuing a boil water advisory, and following.

(i) Water system staff must coordinate with local emergency planning committees when preparing or revising the emergency response plan.

(ii) Water system staff must develop and maintain an emergency contacts list to be used in the emergency response plan's notification procedures.

(iii) The emergency response plan must identify decision-making authorities and responsibilities for water system personnel.

(iv) There must be a procedure for handling a waterborne disease outbreak notification of agencies, water users, and the local media.

(6v) Water system staff shall be instructed and trained in the use of the emergency response plan must develop and maintain a list of institutional customers that serve vulnerable populations, including but not limited to:

hospitals, dialysis centers, elderly care facilities, and childcare facilities.

Statutory/Other Authority: ORS 448.131

Statutes/Other Implemented: ORS 448.131, 448.160