

DATE: December 9, 2024

TO: Hearing Attendees and Commenters –
Oregon Administrative Rules chapter 333, division 61 –
“Clarifications and improvements for public drinking water
requirements”

FROM: Brittany Hall, Hearing Officer and Administrative Rules Coordinator

cc: Brad Daniels, Drinking Water Services Rules Coordinator

SUBJECT: Presiding Hearing Officer’s Report on Rulemaking Hearing and
Public Comment Period

Hearing Officer Report

Date of Hearing: November 19, 2024, via Microsoft Teams

Purpose of Hearing: The purpose of this hearing was to receive testimony regarding the Oregon Health Authority (OHA), Public Health Division, Drinking Water Services’ proposed permanent amendments to Oregon Administrative Rules in chapter 333, division 61 to clarify rule text so it is consistent with agency practices and both state and federal guidance, improve OHA’s ability to enforce violations of maximum contaminant levels, improve formatting so text is easier to understand, remove confusing or unnecessary rule text and to allow OHA the authority to waive annual cross connection program fees that are past-due in cases where an owner of the water system assumed control of the system after the fee was incurred.

Hearing Officer: Brittany Hall

Testimony Received: No testimony was received at the hearing on November 19, 2024.

Other Comments: Two individuals or organizations submitted written comments to OHA within the period allotted for public comment, which closed at 5:00 PM on November 29, 2024. Written comments are attached to this report as **EXHIBIT 1**. Written comments are briefly summarized below, in no particular order.

- Regarding the use of supplemental treatment to reduce the growth and spread of *Legionella* bacteria, OHA heard the request for amendments to OAR 333-061-0010(3) to include “an emergency or rushed pathway for applications so that they are turn around within weeks.”
- 333-061-0040(1)(j) has a few table references to Tables 36 to 38, but these should be Tables 38 to 40.
- 333-061-0043(4)(d) says “Public notice requirements related to coliform investigations...” 333-061-0043 discusses consumer confidence report (CCR) requirements and alternate language was suggested since public notice has a specific meaning in drinking water. Could change to something like “(d) requirements related to coliform monitoring and investigations...”
- 333-061-0070(11) references Table 44 as the cross connection fee, but this should be Table 45.
- 333-061-0265(4) references Table 53 as the operator exam fees, but this should be Table 54.

Agency response:

OHA welcomes comments and recommendation about how to reduce the growth and spread of *Legionella* bacteria. The proposed amendments to OAR 333-061-0010 clarified OHA’s ability to regulate water systems, that would not otherwise be subject to regulation, which utilize treatment for *Legionella* bacteria. OHA’s existing rules for reviewing and approving treatment facilities were not amended in this rulemaking process and OHA is committed to reviewing and approving requests as quickly as possible and without any change to current plan review process or fees. Therefore, no further changes will be made to the rule text at this time.

OHA appreciates the feedback provided on behalf of the U.S. Environmental Protection Agency (EPA). Upon review, OHA has confirmed that Oregon’s draft version of the proposed rules was revised following the submission of a copy to

EPA for review, and the changes recommended by EPA were already completed.



November 29, 2024

ATTN: Brittany Hall, Administrative Rules Coordinator
OHA, Public Health Division
800 NE Oregon St., Suite 930
Portland, OR 97232
rules@odhsoha.oregon.gov

RE: Comment on OAR 33-061, Clarifications and improvements for public drinking water requirements

Dear Brittany Hall and OHA Public Health Division:

Thank you for the opportunity to comment publicly on OAR 333-061-0010(3). Per CDC, the key to preventing Legionnaires' disease is to reduce the risk of *Legionella* bacteria growth and spread. In the United States, the incidence of Legionnaires' disease is increasing; the number of reported Legionnaires' disease cases increased nearly 900% between 2000 and 2018. Supplemental treatment provides an opportunity to disrupt amplification of *Legionella* bacteria and biofilm in building water systems. When considering the amendments to OAR 333-061-0010(3), we ask that there be an emergency or rushed pathway for applications so that they are turned around within weeks. Adding significant wait times or costs to using supplemental treatment will have the unintended consequence of limiting access to proven public health technologies.

Thank you,
Barclay Water Management, Inc.



Hilary Nardone, Public Water Systems Director
Barclay Water Management, Inc.
hnardone@barclaywater.com
(802) 233-4979

From: [Brad K Daniels](#)
To: [HALL Brittany A](#)
Subject: FW: Oregon Drinking Water Rule Amendments
Date: Monday, December 2, 2024 9:41:26 AM
Attachments: [RE Oregon drinking water rule amendments.msg](#)

From: Bates, Caitlin <Bates.Caitlin@epa.gov>
Sent: Tuesday, November 26, 2024 3:47 PM
To: Brad K Daniels <Bradley.K.DANIELS@oha.oregon.gov>
Cc: Nickel, Brian <Nickel.Brian@epa.gov>; Byrd Michelle P <MICHELLE.P.BYRD@oha.oregon.gov>
Subject: Oregon Drinking Water Rule Amendments

Think twice before clicking on links or opening attachments. This email came from outside our organization and might not be safe. If you are not expecting an attachment, contact the sender before opening it.

Hi Brad,

Thank you for providing a copy of the proposed rule changes for EPA review on July 30, 2024. EPA reviewed the changes and has the following comments:

- 333-061-0040(1)(j) has a few table references in the section to Tables 36 to 38, but I think these should be Tables 38 to 40.
- 333-061-0043(4)(d) says "Public notice requirements related to coliform investigations..." 333-061-0043 discusses CCR requirements and our staff suggested alternate language since public notice has a specific meaning in DW. Could change to something like "(d)requirements related to coliform monitoring and investigations..."
- 333-061-0070(11) references Table 44 as the cross connection fee, but I think this should be Table 45.
- 333-061-0265(4) references Table 53 as the operator exam fees, I think this should be Table 54.

Once the rule is finalized, please provide a summary of any changes from the proposed and finalized rules, a copy of the finalized rules, and an attorney general statement on enforceability. EPA will document review of the change in regulations in the FY24 annual program review report, per 40 CFR 142.17(a)(1).

Please let me know if you have any questions.
Thank you,

Caitlin Bates, PE (she/her)
Groundwater and Drinking Water Section
US EPA Region 10, Water Division
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