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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 333
OREGON HEALTH AUTHORITY
PUBLIC HEALTH DIVISION

FILED: 10/29/2026 2:48 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Landlord Testing of Domestic Wells in Groundwater Quality Management Areas

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/02/2026 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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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: 12/02/2026
TIME: 11:00 AM
OFFICER: Staff

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
CONFERENCE ID: 775579740
SPECIAL INSTRUCTIONS:
This hearing is being held remotely via Microsoft Teams. To provide oral (spoken) testimony during this hearing, please contact publichealth.rules@odhsoha.oregon.gov to register to receive the link for the Microsoft Teams video conference via calendar appointment, or you may access the hearing using the meeting URL above. Alternatively, you may dial 971-277-2343, Phone Conference ID 775 579 740# for audio (listen) only. This hearing will close no later than 12:00PM (noon) but may close as early as 11:30AM if everyone who signs up to provide testimony has been heard from.

Accessibility Statement: For individuals with disabilities or individuals who speak a language other than English, OHA can provide free help. Some examples are: sign language and spoken language interpreters, real-time captioning, braille, large print, audio, and written materials in other languages. If you need help with these services, please contact the Public Health Division at 971-673-1222, 711 TTY or publichealth.rules@odhsoha.oregon.gov at least 48 hours before the meeting. All relay calls are accepted. To best ensure our ability to provide a modification please contact us if you are considering attending the meeting and require a modification. The earlier you make a request the more likely we can meet the need.

NEED FOR THE RULE(S):

The Oregon Health Authority (OHA), Public Health Division is proposing to adopt permanent rules in OAR chapter 333, division 61 and permanently amend rules in OAR chapter 333, division 64 in order to implement HB 3525 passed during the 2025 Oregon legislative session (Oregon Laws 2025, chapter 574).

These proposed rules help protect renters who drink and cook with water from private wells and reside in a groundwater quality management area designated by the Oregon Department of Environmental Quality (DEQ). Currently, in the state there are three Groundwater quality management areas: Lower Umatilla Basin, Northern Malheur County, and Southern Willamette Valley. These rules would apply if in the future DEQ designates a new area within the state. Private wells do not receive regular testing, and water from private wells is not regulated under the federal Safe Drinking Water Act, so tenants may use water with harmful contaminants such as arsenic, lead, E. coli, total coliform or nitrates without knowing they are at risk of exposure.

The proposed rules require landlords to use an accredited laboratory to test the well water on a set schedule, share the results with tenants, and have the results sent to OHA directly from the laboratory. This gives renters clear information about their drinking water, supports the health of families in areas with identified groundwater contamination, and helps the landlords monitor water quality in places where contamination is higher.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB 3525 (Oregon Laws 2025, chapter 574):
https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/HB3525

Department of Environmental Quality Groundwater Quality Management Areas website:
https://www.oregon.gov/deq/wq/programs/pages/gwp-management-areas.aspx

Oregon Housing and Community Services Public Tableau (rental housing county profiles)
https://public.tableau.com/app/profile/oregon.housing.and.community.services/viz/CountyProfiles2023-OregonHousing/LandingPage

Environmental Protection Agency Summary of the Safe Drinking Water Act
https://www.epa.gov/laws-regulations/summary-safe-drinking-water-act

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STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

OHA estimates there are approximately 13,051 rental dwelling units relying on a domestic well located within the designated groundwater quality management areas. This is based on an estimated average household size of four occupants, resulting in limited routine water quality monitoring because these wells are unregulated and testing is voluntary. The new rules strengthen protections for rural renters in these areas by requiring landlords to conduct annual water testing—or follow a reduced schedule after consistently receiving results below the maximum contaminant levels

or health action levels established by the US Environmental Protection Agency for the four contaminants included in the rule—thereby ensuring tenants receive reliable information about drinking water quality. These measures also help reduce health risks linked to environmental exposures to the four contaminants included in the rule, particularly in communities associated with groundwater quality management areas.

Adopting these rules is expected to have a positive impact on racial equity in Oregon. OHA's team examined aggregate socioeconomic and demographic indices and census data and concluded that the population of groundwater management areas contain higher-than-average percentages of communities of color, communities affected by quality-of-life disparities, and/or low-income households.

Routine testing for arsenic, lead, coliform bacteria, and nitrates allows for early detection of these contaminants, which is necessary for reducing preventable exposure and lowering long term health impacts. In addition, mandatory disclosure of water quality results for current and prospective tenants improves transparency and allows renters to make informed decisions.

Clear, easy-to-read materials from OHA help renters understand contamination risks and their options, making it easier for everyone to participate in housing decisions. This also gives OHA an opportunity to work with landlords to offer materials in more languages, not just English and Spanish, so renters get more complete information. Finally, application of these standards will improve water quality assurance for socioeconomically disadvantaged renters in groundwater quality management areas.

Low-income rural landlords may experience several difficulties complying with the required well testing regulations. The cost of recurring water testing, including potential follow-up tests, may impose a significant financial burden for landlords who operate with limited resources. Rural landlords often face additional logistical challenges due to limited access to accredited laboratories, higher transportation or shipping costs, and reduced availability of subsidized testing services.
If test results indicate contamination, any remediation action taken voluntarily by landlords—such as providing alternative drinking water or installing treatment systems—may present substantial expenses that exceed the financial capacity of economically constrained landlords and negatively impact health for people who live in these dwellings due to non-compliance. Landlords may struggle to absorb these costs, leading them to remove units from the rental market or raise rents indirectly, further reducing affordable housing in these counties. The data linked (tableau data above) shows that low-income Black, Indigenous, and People of Color (BIPOC) communities are already experiencing a shortage in affordable housing options, further exacerbating a negative impact of affordable housing for BIPOC communities in rural areas.

FISCAL AND ECONOMIC IMPACT:

Landlord costs include expenses for required water testing. The statute underlying the Landlord Testing Act (ORS 90.321) requires testing for arsenic, total coliform bacteria, nitrate, and lead. Testing by an accredited commercial laboratory for all four contaminants costs between $100 and $300 in total. Depending on the initial results, testing may be required once every four years or annually.

These rules will directly impact the work of drinking water testing laboratories and could increase costs for these laboratories that choose to take on this work. These rules will increase demand for drinking water testing laboratory services and produce additional revenue for the laboratories. No laboratories are required to test drinking water samples submitted by landlords.

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) These rules require enforcement by OHA's Oregon Environmental Laboratory Accreditation Program (ORELAP), a state government program that is fee-funded. These rules are not expected to have a cost of compliance impact on local governments. The public may expect increased rents due to the downstream costs of compliance with these rules. OHA does not have any data on how significant these costs may be.

OHA currently manages the OR-Wells database, which is used to store electronic records for domestic wells. The estimated cost to implement these rules and establish the necessary structures within the database is approximately $104,000. The ongoing cost to operate and maintain the database is about $82,000 per biennium however the database is for two other programs. OHA will incur an increased cost to maintain, update, and improve the database for the landlord testing program. However, OHA does not have cost information at this time.

(2)(a) There are currently 22 accredited drinking water laboratories in the State of Oregon as well as approximately 25 accredited drinking water laboratories in neighboring states. OHA's ORELAP anticipates some, but not all, of these laboratories may perform testing under these rules. OHA's ORELAP is aware of unaccredited laboratories in the state, but has no information on how many of those laboratories may pursue accreditation to perform this testing.

OHA estimates that approximately 13,051 rental units are located within the three groundwater quality management areas, based on an average household size of four occupants. This number is a high estimate, however for the purposes of this Statement of Need and Fiscal Impact, these rental units are considered small businesses.

(b) These rules will require additional recordkeeping and reporting processes on the part of the accredited testing laboratories. However, OHA's ORELAP does not expect there to be additional costs associated with these activities for the currently accredited drinking water laboratories because accredited laboratories are already performing similar activities and have appropriate systems in place.

The administrative requirements associated with reporting, recordkeeping, and tenant notifications may burden landlords who lack technical or administrative support. Collectively, these factors could increase the likelihood of noncompliance, elevate financial risk, and potentially jeopardize the sustainability of rental operations for low-income landlords in rural communities.

(c) For laboratories that choose to test water samples, these testing rules could require capital expenditures by the participating laboratories if they are not already equipped to perform the required testing. These costs could include support equipment such as incubators and more complex testing equipment including inductively coupled plasma-mass spectrometers (ICP-MS). Equipment prices range in the tens to hundreds of thousands of dollars. For new laboratories these costs will be significant, but existing drinking water laboratories have most, if not all, of this equipment already. The operating costs will also be considerable, and include salaries for technicians, the purchase of consumables and support equipment, and training. In addition, there are accreditation fees that must be paid to OHA's ORELAP by participating laboratories. Accreditation fees are established by administrative rule in OAR 333-064-0060. These costs are indirectly passed on to landlords in the form of test prices. Additionally, there will be administrative costs associated with submitting the water sample results to OHA.

While landlords may provide equipment related to remediation of discovered water quality issues, it is not a requirement

for compliance.

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

OHA's ORELAP laboratories as well as the Oregon REALTORS and Oregon Property Owners Association were involved in the rule advisory committee, reviewing the proposed text and the Statement of Need and Fiscal Impact form and providing input and feedback. These are small businesses themselves or have a vested interest in supporting small business owners.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
333-061-0326, 333-061-0327, 333-061-0328, 333-064-0005, 333-064-0010, 333-064-0042

ADOPT: 333-061-0326

RULE SUMMARY: Adopt OAR 333-061-0326 – Provides the purpose of OAR 333-061-0326 through 333-061-0328

CHANGES TO RULE:

333-061-0326
Rental Dwelling Unit Domestic Well Testing: Purpose
The purpose of OAR 333-061-0326 through 333-061-0328 is to implement ORS 90.321 (Testing of drinking water of domestic wells in groundwater quality management areas; report to tenants and Oregon Health Authority; rules; limits on data use).
Statutory/Other Authority: ORS 90.321, ORS 413.042
Statutes/Other Implemented: ORS 90.321

ADOPT: 333-061-0327

RULE SUMMARY: Adopt OAR 333-061-0327 – Provides the scope and applicability of OAR 333-061-00326 through 333-061-0328

CHANGES TO RULE:

333-061-0327
Scope
(1) OAR 333-061-0326 to 333-061-0328 applies to all rental dwelling units (as defined in ORS 90.100) within declared ground water quality management areas in ORS 468B.175.¶
(2) OAR 333-061-0326 to 333-061-0328 does not apply to a rental dwelling unit that is part of a premises subject to regulation under ORS 448.119 to 448.285, 454.235 and 454.255, as described in ORS 448.119.
Statutory/Other Authority: ORS 90.321, ORS 413.042
Statutes/Other Implemented: ORS 90.321

ADOPT: 333-061-0328

RULE SUMMARY: Adopt OAR 333-061-0328 - Landlords who rent dwelling units using well water to drink, must regularly test the water for contaminants, including checking for arsenic, total coliform bacteria, E. coli, lead, and nitrates. Testing must happen at least once a year, though it can be reduced to every four years if recent tests show the water does not have exceedances of the analytes listed, and all wells must be tested by June 1, 2027. Landlords must give new tenants either the laboratory results or information about the results and when the next test is due. If there are exceedances found, landlords must notify tenants, provide health information, and retest their well yearly. This ensures renters have information to make informed decisions about the drinking water at the dwelling unit.

CHANGES TO RULE:

333-061-0328
Rental Dwelling Unit Domestic Well Tests
(1) The following terms used in this rule have the meaning given to them under ORS 90.100:¶
(a) Dwelling unit.¶
(b) Landlord.¶
(c) Landlord's agent.¶
(d) Rental agreement.¶
(e) Tenant.¶
(2) A landlord or landlord's agent (hereafter landlord) renting a dwelling unit shall on a schedule as defined below collect well water samples from the dwelling unit using laboratory approved sample collection kits and have the water tested for arsenic, total coliform bacteria, E. coli, lead, and nitrate.¶
(a) The landlord shall test for arsenic within 30 days of installing an exempt well.¶
(b) The landlord shall test for all contaminants (arsenic, total coliform bacteria, E. coli, lead, nitrates) at least once per year.¶
(c) The annual testing frequency may be reduced to every four years if the most recent test shows no contaminants exceeding Maximum Contaminant Levels (MCLs) and/or Action Levels (ALs) as most recently published by the United States Environmental Protection Agency (U.S. EPA), and the same test is either:¶
(A) The first test ever conducted for the unit; or¶
(B) The first test after a prior 4-year interval; or¶
(C) The second consecutive annual passing test following a prior test with no contaminant exceeding the Maximum Containment Levels (MCLs) and/or Action Levels (ALs).¶
(d) The drinking water in all rental dwelling units must be sampled and tested before June 1, 2027, regardless of the standard testing frequency, and irrespective of occupancy status.¶
(3) The landlord shall collect the sample to be tested from the primary faucet of each rental dwelling unit used for drinking and cooking and may also collect supplementary samples from other drinking water faucets in each dwelling or from the rental dwelling unit's wellhead.¶
(4) The landlord may delegate sample collection to the tenant as described in ORS 90.321(5)(b).¶
(5) The laboratory must be certified to analyze drinking water samples using the specific method for the contaminant being analyzed under ORS 438.615 (Oregon Environmental Laboratory Accreditation Program) for drinking water analysis.¶
(6) When submitting samples to the laboratory, the landlord must inform the laboratory that testing is required under ORS 90.321, and request that the laboratory report the results of the test to the Oregon Health Authority (Authority), along with the landlord's contact information, the well address, and the Oregon Water Resources Department well ID label. The landlord must submit the sample with the Authority chain of custody. ¶
(7) The laboratory must report the results of the test:¶
(a) To the landlord as a full laboratory report (and to the tenant if requested by the landlord) in a form showing the absence or presence of coliform bacteria and the concentration of the other required contaminants.¶
(b) To the Authority's Domestic Well Safety Program electronically, in a manner and format as determined by the Authority along with identifying information.¶
(c) To the landlord and the Authority at the same time, and based on the following schedule set by the Authority.¶
(A) If no coliform bacteria are detected and no contaminants exceed the MCLs and/or ALs, results from the prior month are to be reported within 10 days of the end of the month.¶
(B) If coliform bacteria are detected or if any contaminant exceeds the MCLs and/or ALs, results are to be reported within 48 hours, or two business days, after finalization of results.¶
(8) The landlord must provide test results and information to the tenant within 30 days of receiving them, as

either:¶
(a) The full laboratory report; or¶
(b) A pass/fail summary form (as provided by the Authority in plain language) with notice that the tenant may request the full report.¶
(9) Before signing a rental agreement for a rental dwelling unit , the landlord must provide the prospective tenant written notice including:¶
(a) Confirmation that the rental dwelling unit meets the condition in section (2); and¶
(b) Dates and results of the most recent test for each contaminant in the same format described in section (8) of this rule or a statement that testing has not yet occurred; and¶
(c) The date by which the next test for each contaminant must be conducted per section (2) of this rule.¶
(10) If any test shows the presence of coliform bacteria or other contaminants of concern that exceed U.S. EPA MCLs and/or ALs, the landlord must, as soon as practicable:¶
(a) Provide test results to the tenant in accordance with section (8) of this rule.¶
(b) Provide the tenant with a handout developed and maintained by the Authority, explaining drinking water testing for contaminants of concern and the potential health impacts of these contaminants.¶
(c) Retest the well on a schedule described in subsection (2)(c) of this rule.
Statutory/Other Authority: ORS 90.321, ORS 413.042
Statutes/Other Implemented: ORS 90.321

AMEND: 333-064-0005

RULE SUMMARY: Amend OAR 333-064-0005 - This rule is amended to include that the rules implement requirements found in ORS 90.321 and are applicable to testing of domestic wells used in rental dwelling units in ground water quality management areas.

CHANGES TO RULE:

333-064-0005
Purpose ¶

(1) These rules are for the following purposes:¶
(a) Implementing ~~Oregon Revised Statutes (~~ORS~~)~~ 438.605 to 438.620, 448.280 and the Oregon Drinking Water Quality Act of 1981. ORS 438.610 states that the Oregon Health Authority (Authority) shall, by adopting standards in concurrence with the accrediting body, implement an environmental laboratory accreditation program hereafter referred to as the Oregon Environmental Laboratory Accreditation Program (ORELAP). ¶
(b) Establish requirements for the accreditation of laboratories analyzing samples under the guidance of the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), the Resource, Conservation and Recovery Act (RCRA), cannabis testing under ORS 475C.540 to 475C.586, ~~and~~ psilocybin testing under ORS 475A.590 to 475A.622, and rental dwelling unit domestic well testing under ORS 90.321. ¶
(2) The following must be done by an ORELAP accredited laboratory:¶
(a) Testing of water samples under ORS 448.150, Oregon's Drinking Water Quality Act.¶
(b) Testing and sampling of cannabis under ORS 475C.540 to 475C.586, except with written permission from the Authority or the Oregon Liquor and Cannabis Commission.¶
(c) Testing and sampling of psilocybin products under ORS 475A.590 to 475A.622, except with written permission from the Authority.¶
(d) Testing of domestic well water used as a source for drinking water in rental dwelling units within declared groundwater quality management areas under ORS 90.321.
Statutory/Other Authority: ORS 448.150, ORS 448.131, ORS 448.280, ORS 438.605, ORS 438.610, ORS 438.615, ORS 438.620, ORS 475C.544, ORS 475C.560, ORS 475A.590, ORS 475A.606, ORS 90.321
Statutes/Other Implemented: ORS 448.280, ORS 438.605, ORS 438.610, ORS 438.615, ORS 438.620, ORS 475C.544, ORS 475C.560, ORS 475A.590, ORS 475A.606

AMEND: 333-064-0010

RULE SUMMARY: Amend OAR 333-064-0010 – This rule is amended to include that accreditation under the applicable division 64 rules is required for laboratories testing domestic wells used in rental dwelling units in declared ground water quality management areas found in ORS 468B.175.

CHANGES TO RULE:

333-064-0010
Scope ¶

(1) These rules apply to:¶
(a) Laboratories seeking accreditation to perform environmental or agricultural laboratory testing;¶
(b) Laboratories seeking accreditation to perform sampling and laboratory testing of marijuana items and industrial hemp-derived vapor items as required by ORS 475C.560;¶
(c) Laboratories seeking accreditation to perform sampling and laboratory testing of psilocybin products as required by ORS 475A.606; and¶
(d) Accredited laboratories performing:¶
(A) Environmental or agricultural testing;¶
(B) Sampling and testing of marijuana items and industrial hemp-derived vapor items; or¶
(C) Sampling and testing of psilocybin products.¶
(2) Accreditation as described in these rules is required for all laboratories reporting drinking water analysis results to the Oregon Health Authority except for Oregon Department of Agriculture Laboratory, Oregon Department of Environmental Quality Laboratory and the Oregon State Public Health Laboratory which must be certified by the United States Environmental Protection Agency for drinking water analysis.¶
(3) Accreditation as described in these rules is required for all Oregon laboratories sampling and testing marijuana items and industrial hemp-derived vapor items.¶
(4) Accreditation as described in these rules is required for all Oregon laboratories sampling and testing psilocybin products.¶
(5) Accreditation as described in these rules is required for all laboratories reporting domestic well water testing results to the Oregon Health Authority under ORS 90.321.
Statutory/Other Authority: ORS 448.150, ORS 448.131, ORS 448.280, ORS 438.605, ORS 438.610, ORS 438.615, ORS 438.620, ORS 475C.544, ORS 475C.560, ORS 475A.590, ORS 475A.606, ORS 90.321
Statutes/Other Implemented: ORS 448.280, ORS 438.605, ORS 438.610, ORS 438.615, ORS 438.620, ORS 475C.544, ORS 475C.560, ORS 475A.590, ORS 475A.606

ADOPT: 333-064-0042

RULE SUMMARY: Adopt OAR 333-064-0042 - This rule describes the requirements for laboratories reporting rental dwelling unit well testing results to the Oregon Health Authority. The due date for reporting testing results depends on if the testing determines water sample chemical concentrations exceed regulatory levels or if harmful microbes are detected in the sample. Reporting timelines closely mirror existing requirements for reporting compliance drinking water testing results under the Oregon Drinking Water Quality Act and the federal Safe Drinking Water Act.

CHANGES TO RULE:

333-064-0042
Requirements for Reporting Rental Dwelling Unit Well Testing Results
(1) If an accredited laboratory is notified by a landlord or a landlord's agent (as defined in ORS 90.100) that samples are for testing on domestic well water from a rental dwelling unit as required in OAR 333-061-0328, the laboratory must report results of analyses performed by the laboratory directly to the Oregon Health Authority (Authority) in a manner and format as determined by the Authority. Results must be reported to the landlord and the Authority at the same time.¶
(2) If no coliform bacteria are detected and no contaminants exceed the regulatory levels established in OAR 333-061-0328, all results must be reported within 10 days after the end of the month.¶
(3) If a result is positive for coliform bacteria or exceeds the regulatory levels established in OAR 333-061-0328:¶
(a) The accredited lab that issues the final test report must:¶
(A) Validate the results of any sample analysis and report the results directly to the Authority and to the landlord within 48 hours or two business days of completing the analytical run; or¶
(B) Report any sample analysis directly to the Authority and to the landlord within 24 hours or on the next business day after obtaining a sample result from a subcontracted laboratory.¶
(b) Accredited, subcontracted laboratories that have been informed samples are for the purpose of testing domestic well water from a rental dwelling unit as required in OAR 333-061-0328 must validate the results of any sample analysis and report that analysis to their client laboratory within 48 hours or two business days of completing the analytical run.
Statutory/Other Authority: ORS 90.321, ORS 448.131, ORS 448.150, ORS 475C.544, ORS 475C.560
Statutes/Other Implemented: ORS 475C.544, ORS 475C.560, ORS 448.280, ORS 438.605, ORS 438.610, ORS 438.620