

DOMESTIC WELL TESTING PROGRAM

Oregon Administrative Rules 333-061-0305 to 333-061-0335

Revised Effective Date: 2003

333-061-0305 Purpose

The purpose of these rules is to provide a basis for implementing Oregon Revised Statute 448.271. This law became effective on July 24, 1989, and establishes a program to provide water quality monitoring of underground aquifers that are used for domestic purposes. 333-061-0310 Scope These rules apply to sellers in any transaction for the sale or exchange of real estate that includes a dug, drilled or driven well that supplies ground water for domestic purposes. Properties with springs that are used for domestic purposes are exempt from these rules. The seller is required to have certain tests done on the well water and send the results to the Department. Failure of seller to test will not interfere with the sale of the property. The Department may require tests for other contaminants under certain conditions.

333-061-0315 Adoption by Reference

All standards, listings and publications referred to in these rules are, by those references, made part of these rules as though fully set forth. Copies are available from the Department.

333-061-0320 Definitions

As used in these rules, unless the context indicates otherwise:

1. Act means Oregon Revised Statute 448.271.
2. Area of Groundwater Concern means an area of the state subject to a declaration before the Department of Environmental Quality per ORS 468.696 or the Department of Human Services per ORS 448.150. If, as a result of their respective activities, the Department of Human Services or the Department of Environmental Quality confirms the presence in groundwater of contaminants suspected to be the result, at least in part, of non-point source activities, the Department of Environmental Quality, or the Department, shall declare an area of groundwater concern. The declaration shall identify the substances confirmed to be in the groundwater and all groundwater aquifers that may be affected. Either agency may require tests for additional contaminants.
3. Contaminant means any physical, chemical, biological or radiological substance or matter in water.
4. Department means the Oregon Department of Human Services.
5. Domestic means provided for human consumption.



333-061-0320 Definitions (cont)

6. Groundwater means any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state, whatever may be the geologic formation or structure in which such water stands, flows, percolates or otherwise moves.
7. Spring means a point where water emerges naturally from the earth as a result of gravity flow or artesian pressure.
8. Well means any artificial opening or artificially altered natural opening by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn. Well does not include a natural spring that has been altered by means other than those normally used in developing wells.
9. Sellers Designee means the person assigned by the seller to complete the necessary paperwork and submit the lab results to the Department and can be the sellers attorney, real estate agent or broker, the person conducting the tests or a private party.

333-61-0325 Domestic Well Tests

1. In any transaction for the sale or exchange of real estate that includes a well that supplies ground water for domestic purposes, the seller of the real estate shall, upon accepting an offer to purchase that real estate, have the well water tested for nitrates and total coliform bacteria. If the well is in a designated area of groundwater concern the [Health Department] Department may require additional testing.
2. The seller, or sellers designee, shall submit the results of the required tests to the Department.
3. If the seller, or sellers designee, fails to comply with sections (1) and (2) of this rule, this does not invalidate any of the documents needed to complete the sale of the real estate.
4. The seller, or sellers designee, is responsible for making sure that the Department's Water Systems Data Sheet is completed and submitted to the Department with copies of the nitrate and total coliform bacteria lab slips.
5. The Water Resources Department well identification number and a description of the property shall be entered on the water system data sheet for the seller to be considered in compliance with ORS 448.271. The description shall include township, range, section, street address, city, state and zip code.
6. The lab tests required by ORS 448.271 can not be waived even if the buyer agrees not to have the well tested.
7. The lab tests for nitrates and coliform bacteria are considered valid for one year if they are associated with the sale of the property.



333-61-0325 Domestic Well Tests (cont)

8. If the well is not on the property being sold, but the real property includes an interest to a well on adjacent property, including an easement, that interest would be considered part of the real property. Therefore the tests would be required.
9. ORS 448.271 only applies to wells that have been made operational to supply groundwater for domestic purposes. Capped domestic wells on unimproved lots are not required to be tested.

333-061-0330 Certified Laboratories

1. Only laboratories certified by the Department shall be used to conduct the water tests required by these rules.
2. Water tests required by these rules shall be conducted to the standards prescribed in OAR 333-064-0005 through 0065.

333-061-0335 Sample Collection

Only persons who have knowledge of the appropriate procedures for the collection and handling of the water samples for nitrates and total coliform bacteria and who have experience in this area shall collect the samples. These persons include Registered Sanitarians, certified water system operators, well drillers, pump installers, and lab technicians. Specific instructions for the collection, preservation, handling and transport of the samples may be obtained from certified laboratories, county health departments or the Department and must be strictly adhered to.

1. The samples must be drawn from the source prior to any form of water treatment. Samples may be collected after treatment injection points where water treatment has been bypassed or temporarily disabled.
2. In the event that the well has been shock chlorinated, no follow-up samples shall be taken until five days have elapsed.