

**Date:** May 19, 2023

**To:** Environmental Quality Commission

**From:** Leah Feldon, Director

**Subject:** Agenda item L: Onsite Program Wildfire Recovery and the Three Basin Rule  
(Informational)  
May 18-19, 2023, EQC meeting

**Purpose of item**

DEQ will provide an overview of the onsite septic program's work to assist property owners and communities impacted by the historic 2020 wildfires. These efforts include providing technical assistance, prioritizing permit applications for rebuilding, funding septic system repairs and replacements with pass-through federal grants and issuing a new guide for Oregon counties to plan and prepare for future natural disasters. DEQ will also provide an overview of the Three Basin Rule (OAR 340-041-0350), which may apply to some of the applications for Water Pollution Control Facility permits that DEQ expects to receive.

**Background**

The 2020 wildfires, which originated on Sept. 7 and 8, included five wind-driven megafires and 12 other fires burning more than 1 million acres. Governor Kate Brown issued an emergency declaration (E.O. 20-60) covering rural communities in nine western counties where the fires destroyed approximately 4,000 structures and impacted 1,700 septic systems. DEQ's onsite septic program responded on several fronts to address water quality-related issues and assist with recovery efforts.

The onsite program worked with counties in the months after the fire to assess the scope of the damage and financial needs for septic system repairs and replacements. The 2021 Oregon Legislature allocated \$15 million in federal American Rescue Plan Act (ARPA) funding to provide financial aid for septic system repair and replacement, with a priority for communities impacted by the wildfires. DEQ has also prioritized providing technical assistance and regulatory support for onsite septic permitting for wildfire impacted properties. To aid recovery, DEQ also has developed a fact sheet for impacted communities and permit applicants with information about potential aspects of permit review process and groundwater assessments needs (See Attachment 1).

The Three Basin Rule, initially adopted by EQC in 1976, protects the Santiam, Clackamas and McKenzie River basins by providing additional reviews and protections of surface and groundwater in the covered areas. These rules were adopted for these basins because they are the primary source of drinking water for downstream users including the cities of Eugene and Salem and several cities in Clackamas and Washington Counties. Redevelopment in a significant portion of the wildfire-impacted area overlaps

the area covered by the Three Basin Rule, including communities in the Santiam Canyon and the Blue River areas. The Three Basin Rule restricts new or increased discharges and provides for additional levels of review of proposals for onsite septic facilities that treat 5,000 gallons per day or more of wastewater. DEQ's fact sheet on the Three Basin Rule protections is provided as Attachment 2.

It has been nearly 20 years since DEQ last received an onsite Water Pollution Control Facility permit application requiring review under the Three Basin Rule. However, looking ahead as wildfire-impacted communities are in the process of redevelopment, DEQ expects to receive permit applications that will require EQC review and approval under the Three Basin Rule before a permit can be issued. DEQ onsite program staff are coordinating with agency staff in Water Quality Standards and Drinking Water Protection programs and the Department of Justice to identify appropriate standards and review procedures for onsite system permit applications. The first of these applications could be submitted to DEQ mid-summer 2023.

**Key Issues** DEQ will present information regarding:

- **The Onsite Septic Financial Aid Program implementation.** The program was allocated \$15 Million in American Rescue Plan Act Funding for pass through grants to communities.
- **Natural disaster preparedness handbook.** DEQ's new handbook is intended to help county onsite agents to work with their planning departments, other state agencies, and their constituents to prepare and respond to a variety of natural disasters.
- **Protecting drinking water sources and the Three Basin Rule.** DEQ will provide an overview of the rule in anticipation of future permitting requests being presented to the EQC to allow redevelopment as part of the 2020 wildfire recovery efforts.

**Next Steps** DEQ will continue working with potential permit applicants to share information about the requirements of the Three Basin Rule, timelines, and the review process. When DEQ receives an application that requires Three Basin Rule Review, DEQ will review the application and develop a recommendation for EQC action.

## **EQC**

**Involvement** There is no request for commission action as part of this agenda item. This item is informational to ensure the EQC is aware of the Three Basin Rule in anticipation of future EQC action. DEQ plans to share further information about site-specific considerations and regulatory requirements that would pertain to specific project

permits, as DEQ receives facility permit applications. For any application that requires Three Basin Review, DEQ would submit a site-specific staff report and a recommendation to the EQC for consideration and decision at a regularly scheduled meeting.

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