

WPCF-Onsite Permitting and the Three Basin Rule

To: Three Basin Rule Rulemaking Advisory Committee, RAC

From: DEQ Onsite Program

Date: May 6, 2025

Summary of Existing Rule

The Three Basin Rule currently requires any “New” Water Pollution Control Facility permit with a discharge of 5,000 gallons per day or more be approved by the Environmental Quality Commission in the areas subject to the rule.

Description of the Issue

There are many existing facilities within the Three Basin Rule areas served by onsite wastewater treatment, or septic, systems that predate DEQ’s WPCF-Onsite permit requirements. These are generally large systems – over 2,500 gallons per day – or systems that treat wastewater with higher than residential strength limits. These existing facilities are not required to obtain new WPCF-Onsite permits until major repairs or upgrades to one or more septic system is necessary, and/or when the facility proposes to expand where an increase in flow is expected.

Due to the current Three Basin Rule language, existing facilities with discharges of 5,000 gallons per day or more that wish to repair their failing septic systems, must go through the process to get EQC approval. This approval requires DEQ to issue a “New” WPCF-Onsite permit even if these facilities are not proposing any sort of expansion or increased sewage flows. Existing facilities affected by natural disasters, including wildfires, are also subject to this process where the new WPCF permit is required to build back to previous capacity.

These processes take extra time and resources from all parties involved, where such system repairs or upgrades would otherwise be addressed more quickly for the sake of public health and environmental protection. Additionally, septic repairs or upgrades proposed and approved by DEQ at these facilities would likely result in higher levels of treatment, thus resulting in discharges that are more protective than the older systems previously in use.

Revised Sections

Changes are proposed to section 340-041-0350.

Implications of Rule Changes

- Existing facilities, with discharges of 5,000 gallons per day or more, requiring a new DEQ WPCF-Onsite permit, would be able to bypass the need to acquire EQC approval first, when only proposing to repair or upgrade their existing septic system(s) with no additional expansion or increase in sewage flow.

Translation or other formats

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- Resources necessary to issue new WPCF-Onsite permits for existing facilities currently subject to the Three Basin Rule under certain circumstances would be decreased, thus reducing time and cost associated with the permitting process, both for DEQ and for applicants.
- Failing or malfunctioning septic system repairs or upgrades would be addressed faster than if they had to go to the EQC for approval first.
- DEQ would make decisions directly about issuance of new WPCF-Onsite permits, as they do in all other parts of the state, with discharges of 5,000 gallons per day or more for existing facilities in the Three Basin Rule areas. The EQC would no longer need to grant approval for such permits.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

Proposed Rule Changes Pertaining to Variances

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

Text deleted from one location - and moved to another location

Changes are proposed to section 340-041-0350:

OAR 340-041-0350

The Three Basin Rule: Clackamas, McKenzie (above RM 15) & the North Santiam

(1) In order to preserve or improve the existing high quality water for municipal water supplies, recreation, and preservation of aquatic life, new or increased waste discharges must be prohibited, except as provided by this rule, to the waters of:

- (a) The Clackamas River Subbasin;
- (b) The McKenzie River Subbasin above the Hayden Bridge (river mile 15);
- (c) The North Santiam River Subbasin.

(2) Except as otherwise provided for in this rule, this rule becomes effective and applies to all permits pending or applied for after the date of filing with the Secretary of State.

(3) Special Definitions. The following special definitions apply to this rule:

- (a) "Waste Discharges" are defined to mean any discharge that requires and NPDES permit, WPCF permit, or 401 Certification. Individual on-site sewage disposal systems subject to issuance of a construction-installation permit; domestic sewage facilities that discharge less than 5,000 gallons per day under WPCF permit; biosolids land applied within agronomic loading rates pursuant to OAR 340-050; and reclaimed domestic waste water land applied at agronomic rates pursuant to OAR 340-055 are excluded from this definition.
- (b) "Existing Discharges" are defined as those discharges from point sources which existed prior to January 28, 1994;
- (c) "Existing Facilities" are defined as those for which construction started prior to January 28, 1994. Where existing facilities are exempted from requirements placed on new facilities, the exemption applies only to the specific permit(s) addressed in the subsection which allows the exemption;
- (d) "New" NPDES and WPCF permits are defined to include permits for potential or existing discharges which did not previously have a permit, and existing discharges which have a permit, but request an increased load limitation; ~~Existing discharges from facilities served by an onsite sewage disposal system(s), that are not proposing to expand or increase flow or waste strength, and are required to obtain a new WPCF-Onsite permit as a result of a system failure or necessary repairs, are excluded from this definition;~~
- (e) "Agronomic Loading Rate" means the application of biosolids or reclaimed effluent to the land at a rate which is designed to:
 - (A) Provide the quantity of plant nutrients, usually nitrogen, needed by a food crop, feed crop, fiber crop, cover crop or other vegetation grown on the land; **and**
 - (B) Minimize the quantity of nitrogen or other nutrients from land applied materials that pass below the root zone of the crop or vegetation grown on the land to groundwater.
- (f) "Biosolids" means solids derived from primary, secondary, or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that

significantly reduce pathogens and reduce volatile solids or chemical stabilize solids to the extent that they do not attract vectors. This term refers to domestic wastewater treatment facility solids that have undergone adequate treatment to permit their land application;
(g) “Reclaimed Wastewater” means treated effluent from a domestic wastewater treatment system which, as a result of treatment, is suitable for a direct beneficial purpose or a controlled use that could not otherwise occur.

(4) To respond to emergencies or to otherwise avoid imminent serious danger to public health or welfare, the Director or designee may allow lower water quality on a short-term basis.

(5) The Director or a designee may renew or transfer NPDES and WPCF permits for existing facilities. Existing facilities with NPDES permits may not be granted increases in their permitted mass load limitations. The following restrictions and exceptions apply:

- (a)** The Department may conduct an inspection prior to permit renewal. Existing sources with general permits that are found not to qualify for a general permit, and who wish to continue discharging, must apply for an individual permit;
- (b)** Fish hatcheries (General Permit 300) and log ponds (General Permit 400) are required to apply for an individual permit at the time of permit renewal;
- (c)** Additional industrial, confined animal feeding operations, or domestic waste loads that are irrigated on land at agronomic rates or that otherwise meet the conditions of section (7) of this rule is not be considered to be an increase in the permitted wasteload.

(6) The Director or a designee may issue the following General Permits or Certifications subject to the conditions of the Permit or Certification:

- (a)** Stormwater construction activities (General Permits 1200C and 1200CA);
- (b)** Underground storage tank cleanups using best available treatment technology (General Permit 1500);
- (c)** Non-contact cooling water (General Permit 100);
- (d)** Filter backwash (General Permit 200);
- (e)** Boiler blowdown water (General Permit 500);
- (f)** Suction dredging (General Permit 700) only in portions of the basins that are not designated as Scenic Waterways under [ORS 390.805 \(Definitions for ORS 390.805 to 390.925\)](#) to [390.925 \(Enforcement\)](#);
- (g)** Federal Clean Water Act Section 401 water quality certifications.

(7) Long-term general and individual stormwater permits may be allowed as required by State and/or Federal law. The following requirements apply:

- (a)** New stormwater discharge permit holders must maintain a monitoring and water quality evaluation program that is effective in evaluation of the in-stream water quality impacts of the discharge; **and**
- (b)** When sufficient data is available to do so, the Department will assess the water quality impacts of stormwater discharges. Within a subbasin, if the proportion of total degradation that is contributed by the stormwater is determined to be significant compared to that of other permitted sources, or if the Department determines that reducing degradation due to stormwater is cost-effective when compared to other available pollution control options, the Department may institute regulatory mechanisms or modify permit conditions to require control technologies and/or practices that result in protection that is greater than that required Statewide.

(8) Industrial waste discharge sources, confined animal feeding operations, and domestic sewage treatment facilities must meet the following conditions:

- (a)** No NPDES permits for new industrial or new confined animal feeding operation waste

discharges, or new domestic sewage treatment facilities may be issued, except as allowed under sections (3), (4), (5), and (6) of this rule;

(b) The Department may issue WPCF permits for new industrial or confined animal feeding operation waste discharges provided:

(A) There is no waste discharge to surface water; **and**

(B) All groundwater quality protection requirements of [OAR 340-040-0030 \(Permitted Operations\)](#) are met. Neither the Department nor the Commission may grant a concentration limit variance as provided in [OAR 340-040-0030 \(Permitted Operations\)](#), unless the Commission finds that all appropriate groundwater quality protection requirements and compliance monitoring are met and there will be no measurable change in the water quality of the surface water that would be potentially affected by the proposed facility. For any variance request, a public hearing must be held prior to Commission action on the request.

(c) The Department may issue WPCF permits for new domestic sewage treatment facilities provided there is no waste discharge to surface water and provided:

(A) All groundwater quality protection requirements of [OAR 340-040-0030 \(Permitted Operations\)](#) are met. Neither the Department nor the Commission may grant a concentration limit variance as provided in [OAR 340-040-0030 \(Permitted Operations\)](#), unless the Commission finds that all appropriate groundwater quality protection requirements and compliance monitoring are met and there will be no measurable change in the water quality of the surface water that would be potentially affected by the proposed facility. For any variance request, a public hearing must be held and the permit application will be evaluated according to paragraphs (B) and (C) of this subsection;

(B) The Commission finds that the proposed new domestic sewage treatment facility provides a preferable means of sewage collection, treatment and disposal as compared to individual on-site sewage disposal systems. To be preferable, the Commission must find that one of the following criteria applies:

(i) The new sewage treatment facility will eliminate a significant number of failing individual on-site sewage disposal systems that cannot be otherwise reliably and cost-effectively repaired; **or**

(ii) The new sewage treatment facility will treat domestic sewage that would otherwise be treated by individual on-site sewage disposal systems, from which the cumulative impact to groundwater is projected to be greater than that from the new facility; **or**

(iii) If an individual on-site sewage disposal system, or several such systems, would not normally be utilized, a new sewage treatment facility may be allowed if the Commission finds that the social and economic benefits of the discharge outweigh the possible environmental impacts.

(C) Applicants for domestic wastewater WPCF permits must meet the following requirements:

(i) Application must be for an individual permit; **and**

(ii) The proposed discharge must not include wastes that incapacitate the treatment system; **and**

(iii) The facility must be operated or supervised by a certified wastewater treatment plant operator as required in [OAR 340-049-0015 \(General Requirements\)](#), except as exempted by [ORS 448.430 \(Certification exception\)](#); **and**

(iv) An annual written certification of proper treatment and disposal system operation must be obtained from a qualified Registered Sanitarian, Professional Engineer, or certified wastewater treatment system operator.

(9) The Environmental Quality Commission may investigate, together with any other affected State agencies, the means of maintaining at least existing minimum flow during the summer low flow period.