

Topic / Program Element	Commenter(s)	Summary of Comment	Response to Comment
Compliance Dates	Oregon City, Wilsonville, Milwaukie	Ten months should be added to all permit condition implementation dates based on the implementation dates identified in the March 15, 2011 permit to reflect the time lag between the original permit issuance date and the new anticipated permit issuance date. Wasteload allocation attainment assessment and TMDL pollutant load reduction evaluation and benchmark development were not extended to reflect the 10 month addition to the timeline.	DEQ has modified the 303(d) evaluation report, TMDL wasteload attainment assessment and TMDL pollutant load reduction evaluation implementation due dates from November 1, 2014 to November 1, 2015 to reflect the fact that approximately one year has passed between original issuance in March 2011 and the new issuance date in March 2012. November 1 is a date consistent with the submittal of the annual report.
Definition of 'Instream'	Clackamas County WES	No distinction between stream and river, or perennial and intermittent was made in the definition. This could result in MS4 permittees monitoring 'rivers' for which little flow from their jurisdictional area originates. No support in federal or state statute, EPA or DEQ regulations, or DEQ Internal Management Directive to change monitoring policy has been identified. Monitoring and sampling of streams for MS4 purposes has been pattern and practice. No known examples of monitoring rivers for MS4 purposes. EPA Guidance does not recommend monitoring rivers to assess BMP effectiveness. Other permittees are not required to monitor 'rivers'. This rationale should be added to concerns raised in the 14-day applicant review comments. Remove 'river' from definition of 'instream'.	DEQ disagrees that a distinction between stream and river, or perennial and intermittent, is necessary for the purpose of defining 'instream'. As it relates to environmental monitoring, DEQ considers that the definition of 'instream' reflects the common usage of the term in water quality management parlance. The definition was incorporated into the permit based on a request by Clackamas County WES. Instream monitoring can address many of the monitoring objectives identified in the permit depending on the specific monitoring question, sample design, and other factors. DEQ does not prescribe the exact geographical location (i.e., river, creek) that must be monitored, but encourages the co-permittees to coordinate instream monitoring efforts to ensure that all surface waterbodies receiving stormwater from the MS4 are effectively monitored.
General - Permit Coverage based on Population Levels	Clackamas County WES	None of the Clackamas County co-permittees have a MS4 Phase I population level or a MS4 Phase II population level. Much of the population in the SWMACC service area located within the UGB is served by drywells, with >1000 served by a MS4. Phase I permitting programs were developed for and target jurisdictions with far greater resources than the smaller Clackamas County co-permittees.	Although population is a factor that was an important in the development of the MS4 regulations found in 40 CFR 122, other factors, such as the proximity to urban populations, played a role. For example, jurisdictions located within the U.S. Census Bureau-defined Urbanized Area boundary were included during the second phase of the stormwater regulations in 1999. All of the Clackamas County co-permittees are located within this Urbanized Area. DEQ used the Maximum Extent Practicable standard in the development of the Clackamas County MS4 Group permit.
Mercury Monitoring	Oregon City, Wilsonville, Milwaukie	Budgets have been established to collect the two samples during a two year period, but permit requires two samples be collected during a one year period. Request that the mercury monitoring be allowed to be split so one sample (of the two samples required) can be conducted each year.	For analytical purposes, DEQ needs to ensure that the same number of mercury monitoring sample events take place during subsequent monitoring years (i.e., Year 1 vs. Year 2; Year 3 vs. Year 4). The Clackamas County MS4 Group has indicated a preference to split the monitoring requirements into separate tables (i.e., Table B-1). In addition, the Clackamas County MS4 Group has objected to previous permit conditions requiring coordination between co-permittees to ensure appropriate mercury monitoring sample event alignment. As a result, DEQ cannot ensure its analytical needs will be met without specifically identifying the date ranges when a particular co-permittee will be responsible for collecting a wet-season storm event sample and a dry-season storm event sample. Ultimately, the permit does not require a permittee to sample more than one wet-season and one dry-season storm event sample during a 2 year period.
	Oregon City, Wilsonville, Milwaukie	Mercury monitoring date range requirements are based on a modified alphabetical order, not based on geographic proximity. This approach impacts the ability of jurisdictions that are located in close proximity to coordinate. Mercury monitoring date range requirements should consider geographical location.	DEQ considered multiple approaches for identifying how the mercury monitoring requirements would be distributed amongst Clackamas County co-permittees, including by geographical location. The fact that the Clackamas County co-permittees are in a MS4 group permit is partly due to their close geographical proximity. Consequently, DEQ did not consider geographical location as a clear factor for determining the mercury monitoring sample distribution. DEQ continues to encourage the Clackamas County MS4 Group co-permittees to coordinate and utilize intergovernmental agreements or other methods to efficiently collect mercury samples from stormwater.
	Clackamas County WES	Clackamas County MS4 Group is required to do more mercury monitoring than the Gresham MS4 Group and Multnomah County.	DEQ describes how the mercury monitoring requirements were developed beginning on page 24 of the Permit Evaluation Report.
Monitoring	Milwaukie	The analysis of TSS in all samples collected for mercury is a new requirement, and will result in the need for additional resources that is not consistent with the other MS4 Phase I permittees. Request removal of this requirement.	The permit clarifies that sampling for 'Field' analytes and TSS must be completed when mercury monitoring is conducted. This is not an additional monitoring requirement, but a clarification of when the monitoring effort must be conducted. The co-permittees may use the 'Field' analyte and TSS monitoring results to address the stormwater monitoring - wet weather requirements in Table B-1.

	Clackamas County WES	The City of Gladstone population is 10 times larger than SWMACC with less extensive monitoring requirements, and the City of Johnson City has a roughly comparable population size, but also has less extensive monitoring. SWMACC is being singled out for disparate treatment under the current monitoring requirements.	DEQ disagrees. DEQ did not use population size as the only factor for determining the monitoring requirements. In identifying the monitoring requirements for the co-permittees, DEQ partly relied upon the monitoring objectives matrices submitted by the co-permittees in April 2010. These matrices described how the co-permittees intended to address the six monitoring objectives. In addition, DEQ had numerous discussions with co-permittees prior to the October 2010 public notice to verify the appropriateness monitoring requirements incorporated into the permit. As part of the permit appeals, DEQ substantially reduced the monitoring requirements for SWMACC, and DEQ determined that additional information submitted that was submitted by WES did not support a further reduction in monitoring.
	Clackamas County WES	Monitoring requirements impair utilization of best management practices, particularly implementation of capital projects, in protecting water quality.	DEQ considered the delicate balance between implementing management practices to reduce pollutants to the Maximum Extent Practicable and developing monitoring requirements sufficient to yield data which is representative of municipal stormwater activities. The permit conditions represent DEQ's Best Professional Judgment for accomplishing both.
	Clackamas County WES	Federal requirements in 40 CFR 122.26(d) do not include instream monitoring. Remove requirement since it does not reflect the permittee's permit renewal submittal that reflects MEP, and because Phase II permittees are not required to conduct environmental monitoring.	The permit conditions include monitoring types, intervals, and frequencies that DEQ has determined are sufficient to yield representative data.
	Clackamas County WES	A full stream reach does not flow near or through SWMACC's urban, MS4-permitted area. Current monitoring requirements for SMWACC do not include 'instream' monitoring. Therefore, all 'instream' monitoring for SWMACC needs to be removed.	SWMACC's MS4-permitted area discharges directly into 'waters of the State' and to municipal storm sewer systems of other MS4 co-permittees that discharge to 'waters of the State'. DEQ has determined that it is appropriate for SWMACC to conduct 'instream' monitoring that will contribute representative data to address the monitoring objectives, including evaluating the status and long-term trends in receiving waters.
	Clackamas County WES	Mercury and pesticide monitoring is expensive, and more money should be spent on projects or programs known to improve water quality. Remove the mercury and pesticide monitoring requirements.	The permit conditions include monitoring types, intervals, and frequencies that DEQ has determined are sufficient to yield representative data.
	Clackamas County WES	The list of additional pesticides that must be considered is overly restrictive. Remove 'must' and replace with 'may'.	DEQ disagrees. It is important that the co-permittees consider the listed pesticides during the development of their pesticide monitoring program, and provide justification in their monitoring plan regarding why certain pesticides are, or are not, included in their monitoring program. DEQ worked extensively with the state's Water Quality Pesticide Management Team to identify commonly used urban pesticides in Oregon, which were identified in the list.
MS4 Group Permit	Clackamas County WES	Request conversation regarding the appropriateness of the Clackamas County MS4 Group permit.	DEQ met with representative of Clackamas County WES on February 23, 2012.
New Permit Conditions	Clackamas County WES	New requirements and timelines are problematic due to the potential need for greater resources for additional support staff, staff training, and project funding. Current economics and unpredictable funding does not align with the new tasks the permittees proposed in the permit renewal applications. Revise requirements to reflect the reality of the jurisdictions and better utilization of scarce resources.	Based on information available to DEQ at the time of permit issuance, permit conditions reflect DEQ's determination of the actions and activities that are required to meet the Maximum Extent Practicable standard and effective prohibition of non-stormwater discharges into the MS4.
Onsite Retention	Clackamas County WES	A definition of onsite retention should be added to improve clarity.	DEQ disagrees. DEQ has already provided examples of acceptable onsite retention approaches (i.e., infiltration, evapotranspiration, and water capture/reuse) in the Permit Evaluation Report to clarify the term.
Sources Covered	Clackamas County WES	The use of the Urban Growth Boundary (UGB) for the jurisdictional boundary for SWMACC is inappropriate and inequitable. The Boring, Hoodland, and Fischer's Forest Park service areas are not within the UGB, and therefore not covered by the MS4 permit. Modify permit language to reflect this information.	DEQ disagrees. DEQ will periodically review the UGB and the federally-defined Urbanized Area boundary to ensure sources covered are adequately aligned with 40 CFR 122 requirements. Also, it is DEQ's understanding that Boring, Hoodland, and Fischer's Forest Park areas are not part of the CCSD No. 1 stormwater service area based on previous statements made by Clackamas County WES; therefore, DEQ does not consider these areas to be part of the MS4 permit jurisdictional area.