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Summary of Key Changes

NPDES MS4 Phase II General Permit

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On November 30, 2018, DEQ issued a National Pollutant Discharge Elimination System permit for discharges from small municipal separate storm sewer systems. The permit conditions were established in accordance with Clean Water Act and NPDES stormwater regulations.

DEQ took public comments on the draft permit from November 27, 2017 to February 20, 2018, and hosted a public hearing on January 26, 2018. DEQ received over 31 unique written letters and 2 oral comments on the draft permit. This document summarizes the significant changes from the draft permit.

This permit will be Oregon's first MS4 Phase II general permit issued after EPA's revision to the Phase II Stormwater Rule in 2016. The permit utilizes the Comprehensive General Permit Approach, and is drafted to satisfy the MS4 Permit Standard or the requirement "to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the water quality requirements of the Clean Water Act."

A summary of the tiers and tiered requirements is presented after the discussion of key changes.

DEQ's goal in the final permit was to write clear, specific and measurable conditions aimed at consistent implementation throughout the state. The following are the key changes to the proposed permit:

- **Requirement to Reduce the Discharge of Pollutants** - Based on comments received DEQ added the following condition to the permit:
Pursuant to 40 CFR §122.34(a), the permit registrant must at a minimum develop, implement and enforce a Stormwater Management Program (SWMP) designed to reduce pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the appropriate water quality requirement of the Clean Water Act. This permit identifies the management practices, control techniques and system, and design and engineering methods necessary to meet this standard.
- **Water Quality Standards** - "Causing or contributing", based on comments, DEQ modified permit condition to include the underlined text:
If the permit registrant complies with all the terms and conditions of this permit, it is presumed that the permit registrant is not causing or contributing to an excursion above the applicable water quality standards as established in OAR 340-041.
- **Illicit Discharge Detection and Elimination** - Based on comments received and because other permit conditions ensure appropriate attention to illicit discharges into the MS4s, DEQ removed the septic system investigation and on-site investigation requirements from the permit.
- **Illicit Discharge Detection and Elimination** - Based on comments, DEQ removed the System Evaluation for Chronic Illicit Discharges and replaced this section with a Dry Weather Screening Program. This modification aligns with the existing MS4 Phase I permits.

- **Construction Site Runoff Control** - The 5,000-square-foot threshold was modified to:
7,000 square feet or more for Large Communities
10,890 square feet (one quarter of an acre) or more for Small Communities
- **Post-Construction Site Runoff for New Development and Redevelopment** - For counties the 5,000-square-foot threshold was modified to (for their coverage area that is outside a urban growth boundary):
For counties, through ordinance or other regulatory mechanism, to the extent allowable under state law, the permit registrant must require the following for project sites discharging stormwater to the MS4 that create or replace 10,890 square feet (a quarter of an acre) or more of new impervious surface area.

(Summary of tiered requirements below)

Summary of Tiers in Permit

The permit maintains the “New vs. Existing Registrants” and “Large vs. Small Communities” tiers.

The final permit did not change the definition or the compliance timelines for Existing and New Registrants:

Existing Registrants are those entities that currently have an individual NPDES MS4 permit.

New Registrants or “New MS4 Permittees” are those entities required to have MS4 permit coverage for the first time.

	Implementation Deadline	
	Existing Registrants	New Registrants
Public Education and Outreach	February 28, 2020	September 1, 2023
Public Involvement and Participation	February 28, 2020	September 1, 2023
Illicit Discharge Detection and Elimination	February 28, 2022	September 1, 2023
Construction Site Runoff Control	February 28, 2023	September 1, 2023
Post-Construction Site Runoff For New Development and Redevelopment	February 28, 2023	September 1, 2023
Pollution Prevention and Good Housekeeping for Municipal Operations	February 28, 2022	September 1, 2023

The final permit did not change the definition for Large and Small Communities:

A *Small Community* is defined as any registrant that has a population of <10,000 people or is a county that is the sole permit registrant/applicant.

All other communities are defined as a *Large Community*.

The final permit has the following tiered requirements for Large and Small Communities. The requirements that do not included separate tiered requirements are necessary for all permit registrants to satisfy the MS4 permit standard.

	Large Communities	Small Communities
Education and Outreach	--	--
Public Participation	--	--
Illicit Detection And Elimination	--	--
Construction Stormwater Runoff	7,000 sf (threshold) Inspect 25% of sites < 1 acre (Existing only)	10,890 sf (threshold) No additional
Post-Const. Stormwater Runoff	--	(see note below) ¹
Good Housekeeping for MS4s	--	--

¹ For counties, through ordinance or other regulatory mechanism, to the extent allowable under state law, the permit registrant must require the following for project sites discharging stormwater to the MS4 that create or replace 10,890 square feet (a quarter of an acre) or more of new impervious surface area.