

## DEQ Request for Comments and Public Hearing on Proposed 1200-C NPDES Construction Stormwater General Discharge Permit Renewal



State of Oregon  
Department of  
Environmental  
Quality

The Oregon Department of Environmental Quality invites the public to provide oral and written comment on the conditions of the proposed 1200-C water quality permit, known officially as the National Pollutant Discharge Elimination System Stormwater General Discharge Permit.

### Summary

Subject to public review and comment, DEQ intends to renew the 1200-C permit, which allows permit registrants to discharge stormwater from construction or land disturbing activities that have the potential to discharge to surface waters or to a conveyance system that leads to surface waters of the state in Oregon with specific conditions. Part of the review process is an opportunity for public comment, based on the review of the draft permit and other DEQ information.

### Key Changes Proposed in 1200-C Draft Permit

DEQ's goal is to have a permit that clearly meets all of the state and federal requirements (the Federal Construction General Permit was reissued in 2017), is implementable and protects water quality. Most of the conditions in the current 1200-C permit are retained in the proposed draft permit. However, the draft permit has been substantially reorganized and reworded to improve clarity. The following are significant changes proposed in the 1200-C draft permit:

**Application Submission:** DEQ is in the process of modernizing and upgrading the way it accepts, shares and processes information with a new Environmental Data Management System called "Your DEQ Online." Changes have been made to the permit process that will reduce paper use and streamline DEQ's review and recordkeeping processes.

**Environmental Management Plan:** An additional plan submittal and fee are required to cover projects with contaminated soils, dewatering plans and active treatment systems (including pH lowering of discharge from amended soils). The fee for Environmental Plan Review is currently \$767.00 per OAR 340-045-0075 Table 70F. Discharges from sites utilizing these systems or encountering contaminated soil conditions have the potential to discharge pollutants. Therefore, plan review by DEQ is necessary. The goal of this proposed permit addition is to address potential submission requirements before 1200-C permit coverage is issued in order to prevent pollutant

discharges and to ensure the information is considered when permit coverage decisions are made. Additionally, providing the information with the permit applications may allow the registrant to avoid work delays that could occur if plans are submitted for approval after the permit is issued. Appendix A includes guidance and instruction. Application materials and information will be available for the situations when this requirement applies.

**Visual Monitoring Requirements:** The current permit requires projects of five acres or more to have visual monitoring performed by a certified individual. The proposed permit requires all projects that are one acre or more in size to be visually monitored by a certified inspector. The proposed change is so the majority of construction sites perform visual inspections to ensure the Erosion and Sediment Control Plans are implemented and effective as designed. DEQ anticipates this will increase the effectiveness of the Best Management Practices implemented at sites.

**Use of Engineered Soils:** The practice of cementitious stabilization of soil on project sites in Oregon has increased and is becoming more common. Engineering soils by the addition of cementitious compounds extends the building period into wet weather. The proposed change establishes clear requirements for the application of cementitious compounds. It also ensures water quality is protected as potentially high pH stormwater runoff must be monitored and neutralized before being discharged from the project site.

**Small Lot Permit:** The Small Lot Permit is required for a construction site less than one acre, if it is part of a "common plan of development or sale" disturbing one or more acres. DEQ's Small Lot Permit requirements have been incorporated into the proposed draft permit. The current small lot permit has a unique and separate application process and fee structure which inadvertently created an inconvenient permitting process for lots less than an acre in size (typically as part of a common plan of development). All projects that require 1200-C permit coverage have the same application and submittal requirements (except for the application fee, and no annual fee for common

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plan of development projects that are less than one acre). The intent is to create a consistent permit process that simplifies obtaining and maintaining permit coverage for the regulated community.

### **Where can I get more information?**

View information about this proposed permit, including the application, permit evaluation report and underlying documents, either [online](#) or by contacting Blair Edwards, Stormwater Program Coordinator, to make an appointment to review the documents in person:

**Phone:** 503-229-5185

**Email:** [edwards.blair@deq.state.or.us](mailto:edwards.blair@deq.state.or.us)

### **How do I participate?**

You may submit your comments by mail or email to:

Blair Edwards  
Stormwater Program Coordinator  
700 NE Multnomah St., Ste. 600  
Portland, OR 97232

**All comments are due by 5 p.m. (PDT), Monday, Oct. 28, 2020.** All comments will become part of the public record.

DEQ will hold a virtual public hearing on this draft permit at 1 p.m. (PDT) on Oct. 28, 2020. The following link is provided to register in advance for this meeting:

<https://zoom.us/meeting/register/tJUvf--urTsvHtXyEiuvMuf2w58B0ib-rbaC>.

### **1200-C Permit Background Information**

DEQ last renewed this permit on December 15, 2015. Authorized stormwater and non-stormwater discharges listed in the 1200-C permit can be conveyed to or discharged directly to surface waters of the state in Oregon. If the waterbody is on the 303(d) list, conditions of the 1200-C require additional control measures be implemented to prevent further degradation of the impaired waterbody for the listed pollutant parameter. Sedimentation and turbidity pose the greatest risk to receiving waterbodies of stormwater discharges from construction and land disturbing activities. If the receiving waterbody has an approved Total Daily Maximum Load (commonly described as a TMDL), or approved for a TMDL but one has not yet been developed, the registrant must design an Erosion and Sediment Control Plan to prevent additional pollutant loads from 1200-C authorized discharges. Thus, the 1200-C Construction Stormwater General Permit conditions are intended to prevent the discharge of pollutants to Oregon surface waters of the state.

### **What types of pollutants does the permit regulate?**

Sediment transport and erosion pose the greatest risk of pollutants being discharged to Oregon waters of the state from construction and land disturbing activities. Typically, pollutants are attached to particles suspended in the water discharged from a construction site, thus controlling sediment in water discharged from construction sites reduces the pollutant load. Preventing turbid discharges is the overarching goal of the 1200-C draft permit. This permit sets conditions for how the registrant prevents pollutants discharging in stormwater due to construction activities:

**Turbidity** is a measure of muddiness or cloudiness in water. The discharge of sediment can cause a turbid plume in the water.

**Pollution Prevention** requirements prevent the discharge of pollutants to stormwater by preventing the discharge of pollutants from spilled or leaked materials from construction activities, such as building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present. The permit registrant must provide written spill prevention and response procedures, employee training on spill prevention and proper disposal procedures, spill kits available on site, regularly maintained vehicles and machinery, material delivery and storage controls, signage and covered storage areas for waste and supplies.

### **How did DEQ determine the proposed permit requirements?**

DEQ evaluated the types and amounts of pollutants associated with regulated construction activities to protect water quality. During the development of the draft permit requirements, DEQ's focus was to ensure that discharges from construction sites will meet applicable statutes, rules, regulations and effluent guidelines of the State of Oregon and the U.S. Environmental Protection Agency. To further determine appropriate conditions and provisions of this draft permit, DEQ evaluated compliance and enforcement actions with the current permit and federal requirements. For this permit action, DEQ evaluated the Clean Water Act, 40 Code of Federal Regulations §450.21, 40 Code of Federal Regulations (CFR) §122, the Federal Construction General Permit, Oregon Revised Statutes 468B, and Oregon Administrative Rules 340-041 and 340-045.

### **How does DEQ monitor compliance with the permit requirements?**

The draft permit requires 1200-C permit registrants to visually monitor best management practices (BMPs)

implemented as designed in a site-specific Erosion and Sediment Control Plan (ESCP). The ESCP is designed, implemented and revised based on conditions of the 1200-C permit. DEQ reviews the visual monitoring reports to check for compliance with permit conditions, BMP effectiveness and maintenance, and monitoring schedules. DEQ and Agents also conduct inspections of construction sites.

### **What happens after the public comment period closes?**

DEQ will consider and respond to all comments received and may modify the proposed permit based on comments. DEQ gives equal weight to written and oral comments.

### **Alternative formats**

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).