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MS4 Phase II General Permit Development

## **MS4 Phase II General Permit Development**

### **Background**

DEQ currently regulates municipal stormwater discharges from 19 communities with populations less than 100,000 (Phase II) under Municipal Separate Storm Sewer System individual permits. Those individual permits expired in 2012.

The number of regulated Phase II communities in Oregon has increased due to population growth. In 2012 seven new regulated communities were notified that they will be required to obtain coverage permit coverage.

DEQ has proposed to permit existing and future Phase II communities under a general permit, the MS4 Phase II Stormwater general permit.

### **Listening session takeaways**

In July 2016 DEQ posted the draft MS4 Phase II general permit for public notice and received 250 separate comment or oral testimonies. Based on several requests, DEQ hosted two facilitated listening sessions to further explore issues raised during the public process. The recommendations included:

- DEQ should build off the current general permit draft and re-evaluate a tiered permit structure to acknowledge that smaller communities have less capacity than larger ones, and time is needed for new communities.
- DEQ should evaluate the permit conditions for new communities who need time to develop an MS4 program.

### **DEQ listening session next steps**

1. DEQ will propose a tiered general permit to address the differences of new, small and existing Phase II communities.
2. DEQ will work to address concerns raised during the listening session and public comment period.
3. DEQ will re-engage MS4 stakeholders before the permit is reposted for public comment.

### **MS4 Phase II permit development timeline**

Current: DEQ redrafting permit to address tiers, comments, remand rule, other issues

April 27, 2017: DEQ information meeting

Tentative: Sept. 30, 2017 - Begin permit public comment process

## **DEQ Information Meeting**

Oregon DEQ will be hosting an information meeting related to the development of the MS4 Phase II General Permit on April 27, 2017 at the DEQ Salem Office.

### **Agenda and Overview (/deq/FilterDocs/ms4Agenda042717Rev.pdf)**

Meeting Location:

DEQ Salem Office

4026 Fairview Industrial Drive

Salem, OR 97302

503-378-8240

**Proposed MS4 Phase II Stormwater general permit - dated July 1, 2016**

**DEQ Listening Session - Phase II permit**

**MS4 Advisory Committee - Phase II permit development**


**Who is or would be covered by this permit?**

**How do municipal separate storm sewer systems that serve urbanized areas affect water quality?**

## **Public involvement**

DEQ is no longer accepting comments and the opportunity to review and submit comments has concluded. DEQ will post the revised draft permit for public comment when available.

If you are interested in receiving updates about the Phase II General Permit development and MS4 Advisory Committee meeting notices, please **email (<mailto:MS4PermitComment@deq.state.or.us>)** your name, affiliation and email address.

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# DEQ's MS4 Phase II General Permit Tiered System Overview

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## Listening Session Takeaways

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## Comprehensive General Permit Framework

DEQ will issue a MS4 general permit that includes the full set of requirements necessary to meet the MS4 permit standard of “reducing pollutant discharges from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the CWA.”

- Under the Comprehensive General Permit, all requirements are contained within the general permit.
- The permit, not the SWMP document, contains the requirements for each of the minimum measures.
- In accordance with the federal Remand Rule, the permit must include “clear, specific, and measurable” permit requirements.

## Minimum requires of a MS4 Stormwater Management Program

MS4 permittees are required to develop a stormwater management program to address the following minimum control measures:

- Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Runoff
- Post-Construction Site Runoff
- Pollution Prevention and Good Housekeeping for Municipal Operations

# DEQ's MS4 Phase II General Permit Tiered System Overview

## Compliance Timeline for New MS4 Permittees

A "New MS4 Permittee" is any community required to have MS4 permit coverage for the first time. In accordance with federal rules, DEQ may specify a time period of up to five years from the effective date of permit for "New MS4 Permittee" to fully comply with the conditions of the permit and to implement necessary BMPs. The compliance timeline framework for the minimum control measures is:

	Education & Outreach	Public Involvement	IDDE	Construction Site Runoff	Post- Const. Site Runoff	Pollution Prevention
<b>Existing</b>	1 year	1 year	3 years	4 years	4 years	3 years
<b>New</b>	1 year	1 year	4.5 years	4.5 years	4.5 years	4.5 years

## Tiered System for Small Communities

Based on feedback from the MS4 Advisory Committee, public comments, and listening sessions, two tiers have been identified and are outlined below. DEQ will propose new permit language to identify specific permit conditions where the "level of effort" required will be proportionate to the Tier I and Tier II communities based on population.

- Tier I - **Example** all communities not defined as Tier II (i.e., the larger Phase II communities)
- Tier II - **Example** communities with less than 10,000 in population. Co-permittees with a combined total population 10,000 or greater are not eligible for the Tier II.

Tier I ≥ 10,000 population*			Tier II <10,000 population*	
Existing		New	Existing	New
Benton County	Medford	Josephine County	Philomath	Eagle Point
Lane County	RVSS	Linn County	Turner	Millersburg
Marion County	RVSS-Central Point	Albany	Wood Village	Rogue River
Polk County	RVSS-Jackson County	Grants Pass		
Ashland	RVSS-Phoenix			
Bend	RVSS-Talent			
Corvallis	Springfield			
Keizer	Troutdale			

\*Based on 2010 US Census data. Communities are automatically designated for coverage by EPA and notified by DEQ.

# DEQ's MS4 Phase II General Permit Tiered System Overview

## Illicit Discharge Detection and Elimination Program

Permittees must implement an IDDE Program to prohibit, prevent, detect, investigate, and eliminate illicit discharges into and from their MS4.

- Permittees are required to:
  - Develop a storm system map
  - Establish legal authority
  - Detect, locate, and eliminate illicit discharges
  - Develop and implement a field screening program
- Permit conditions related to chronic or continuous illicit discharges investigations will be evaluated.
- Tiered implementation of the IDDE Program:

		Tier I	Tier II
Storm Sewer System Map	GIS based MS4 map	✓	
	GIS or digital or printed MS4 map		✓
Field Screening Program	Dry weather screening	✓	✓
	System investigation	✓	

### *Example of Dry Weather Screening Requirement*

- Visual dry weather screening for at least 25% of the MS4 and on average 10% each year thereafter

### *Example of System Investigation Requirement*

- System investigation for at least 20% and on average 5% each year thereafter

### *Examples of System Investigation Techniques*

- Closed circuit TV equipment, dye, and/or smoke testing

The information collected and documented as part of the implementation of the IDDE Program will be captured in the annual report template. Some examples include: results of dry weather screening program activities conducted, the type and number of inspections, follow-up inspections and any enforcement actions

# DEQ's MS4 Phase II General Permit Tiered System Overview

## Construction Site Runoff Control

Permittees must develop, implement and enforce a program to reduce discharges of pollutants and control stormwater runoff from construction activities that results in land disturbance of 5,000 ft<sup>2</sup> or more.

- Permittees are required to:
  - Establish legal authority
  - Require site runoff controls
  - Review site plans for construction site
  - Establish and implement an inspection program
- Tiered implementation of the 5,000 ft<sup>2</sup> threshold for the Construction Site Runoff Program:

		Tier I	Tier II			
		≥ 5,000 ft <sup>2</sup>	5,000 - 10,889 ft <sup>2</sup>	10,890 - 21,779 ft <sup>2</sup>	21,780 - 43,560 ft <sup>2</sup>	≥ 43,560 ft <sup>2</sup>
			5,000 ft <sup>2</sup> - ¼ acre	¼ - ½ acre	½ - <1 acre	≥ 1 acre
Construction Site Plan Review	Provide "small lot" template	✓	✓	✓	✓	✓
	Review "small lot" template	✓		✓	✓	✓
	Review Stormwater Controls	✓			✓	✓
	Require and confirm site has a 1200-C	✓				✓
Construction Site Inspections	Inspect if sediment is discharged or complaint received	✓	✓	✓	✓	✓
	Inspect 25% of sites	✓			✓	
	Inspect once per permit term	✓				✓

The information collected and documented as part of the implementation of the Construction Site Runoff Program will be captured in the annual report template. Some examples include: type and number of inspections, follow-up inspections, compliance actions, and any enforcement actions related to this program.

# DEQ's MS4 Phase II General Permit Tiered System Overview

## Post-Construction Site Runoff Control

Permittees must develop, implement and enforce a program to reduce discharges of pollutants and control stormwater runoff from new development and redevelopment project (i.e., post-construction) sites discharging stormwater to the MS4 creating 5,000 square feet or more of new impervious surface area.

- Permittees are required to establish legal authority, through ordinance or other regulatory mechanism, to require the installation and long-term maintenance of permanent nonstructural and structural stormwater controls.
- Summary of developing Post-Construction Stormwater Management Requirements:
  - Step 1: Require prioritization of an LID approach.
  - Step 2: Establish site performance standards and treatment requirements.
  - Step 3: Allow for and establish mitigation options.
- Tiered implementation of the 5,000 ft<sup>2</sup> threshold for the Post-Construction Site Runoff Program:

	Tier I	Tier II		
	≥ 5,000 ft <sup>2</sup>	5,000 - 10,889 ft <sup>2</sup> 5,000 ft <sup>2</sup> - ¼ acre	≥ 10,890 ft <sup>2</sup> ≥ ¼ acre	≥ 43,560 ft <sup>2</sup> ≥ 1 acre
LID Code Requirements	✓	✓	✓	✓
Post-Construction Stormwater Management Requirements	✓	✓	✓	✓
Post-Construction Site Runoff Plan Review	✓		✓	✓
Inspection of Permanent Stormwater Controls	✓	Inspect % of sites	Inspect % of sites	✓
Long-Term Operation and Maintenance	✓	✓	✓	✓
O&M of stormwater controls owned and operated by another entity	✓	Inspect % of sites	Inspect % of sites	✓

The information collected and documented as part of the implementation of the Post-Construction Site Runoff Program will be captured in the annual report template. Some examples include: type and number of inspections, follow-up inspections, compliance actions, and any enforcement actions related to this program.