Idaho Pollutant Discharge Elimination System

Designation Criteria and Selection Process for
Small Municipal Separate Storm Sewer Systems

State of Idaho
Department of Environmental Quality

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1 Introduction

The Idaho Department of Environmental Quality (DEQ) is in the process of obtaining approval to be the National Pollutant Discharge Elimination System (NPDES) permitting authority in Idaho. As part of this process and as a requirement of having an approved program, DEQ must establish criteria and procedures to identify and regulate small municipal separate storm sewer systems (MS4s). A small MS4 is any MS4 not already covered by the Phase I program as a medium or large MS4. Medium and large MS4s are typically those that serve populations of 100,000 or greater.

This document outlines the criteria and processes DEQ proposes to use in determining whether specific small MS4s will be designated as "regulated small MS4s." A small MS4 is automatically designated as a regulated MS4 if it is located within the boundary of a US Census Bureau–defined "Urbanized Area (UA)."

The US Environmental Protection Agency (EPA) published the NPDES storm water "Phase II" final rule on December 8, 1999 (64 FR 68722). In this rule, there are three ways a small MS4 may be designated as a "regulated small MS4" requiring permit coverage:

1. Those located within the boundaries of a US Census Bureau–defined UA (based on the latest decennial census) are automatically designated.
2. Those outside UAs that contribute substantially to pollutant loadings of a physically interconnected MS4 regulated by the NPDES storm water program are to be designated.
3. Those located outside UAs serving jurisdictions with a population of at least 10,000 and a population density of at least 1,000 people per square mile or that meet certain designation criteria are to be designated by the permitting authority.

The criteria and processes outlined in this guidance apply to the second and third cases described above regarding small MS4s outside UAs.

2 Designation Criteria

As outlined in 40 CFR §123.35(b)(1)(ii) and the storm water Phase II fact sheet series (EPA 833-F-00-003), DEQ must consider whether storm water discharges from a small MS4 result, or potentially result, in exceedances of water quality standards, including impairment of designated uses, and/or adverse habitat or biological impacts.

DEQ proposes to use the following criteria, in the form of questions, as the basis for evaluating those MS4s that are not automatically designated. These criteria are based on recommendations made by EPA in the Phase II rule proposal and are intended to evaluate the potential or actual water quality impacts from storm water discharges originating within highly populated areas.

1. **Is the MS4 a significant contributor of pollutants to waters of the United States?**

   Municipal storm water discharges that contribute to a violation of water quality standards or are considered a significant contributor of pollutants to waters of the United States will be evaluated as potential candidate MS4s, unless an EPA-approved total maximum daily load (TMDL) analysis has determined otherwise. Further, a municipal storm water discharge that is specifically named and required to reduce loading through an EPA-approved TMDL analysis shall be considered a significant contributor of pollutants to waters of the United States.

2. **Is the MS4 physically interconnected to another MS4 or contiguous to an urbanized area?**

   As required by 40 CFR §123.35(b)(4), an MS4 located outside a UA that contributes substantially to the pollutant loadings of a physically interconnected MS4 already regulated under Phase II must be included in the program. To be "physically interconnected," the MS4—including roads with drainage systems and municipal streets—of one entity is physically connected directly to an MS4 of another entity.

   Jurisdictions that are directly adjacent to a US Census Bureau–defined UA will be considered to have potential impacts on a neighboring regulated municipality.

3. **Is the MS4 densely populated or does it have high growth potential?**

   Population density is related to the level of human activity and has been shown to be directly linked to total impervious land surfaces; impervious surfaces are directly related to pollutant loadings from storm water runoff. Densely populated is defined as at least 1,000 people per square mile. DEQ will consider as candidates for regulation all MS4 applicants with a population of 10,000 or greater and a density of at least 1,000 people per square mile. Small MS4s below this cutoff will be evaluated regarding their potential as candidate MS4s based on other criteria outlined here.

   High population growth or growth potential means the local residential population has grown by a rate of 10% or more within a 10-year period, based on the latest US Census Bureau information. Small MS4s with high population growth will also be evaluated as potential candidate MS4s.

4. **Does the MS4 discharge storm water to sensitive waters?**

   For the purposes of this guidance, sensitive waters generally include public drinking water intakes and their designated protection areas; public swimming beaches; state-designated Outstanding Resource Waters (ORWs); waters within federal, state, and local parks; and waters containing threatened or endangered species and their habitat.

DEQ will evaluate an MS4's receiving water(s) to determine the presence and proximity of drinking water intakes, public swimming beaches, ORWs, parks, and the presence of threatened or endangered species. MS4s with discharges closer than 1 mile to any of the above listed items may be considered candidates for regulation as a small MS4. Additionally, if the discharge is to sensitive water, DEQ will evaluate the potential for that discharge to have an adverse impact on the receiving water.

5. **Is the storm water runoff from this MS4 effectively addressed by other water quality programs?**

   DEQ will consider, on a case-by-case basis, whether the storm water runoff from a potentially designated MS4 is effectively addressed under other regulations or programs, such as nonpoint source programs. Information in support of this criterion should be provided directly to DEQ by the candidate MS4.

3 Designation Process

Using the above set of questions, DEQ will identify candidate small MS4s. Once a small MS4 has been identified as a candidate for regulation, DEQ will work with the MS4 to determine the appropriate programmatic outcomes. In addition, prior to DEQ assuming primacy, final determination on public petitions for designation received by EPA Region 10 under 40 CFR §122.26(f) must be made by EPA within 180 days from the receipt of the petition. Once DEQ assumes primacy, it will continue to follow §122.26(f).

The US Census Bureau published in the Federal Register its list of UAs on March 27, 2012 (77 FR 18652). In Idaho, these areas are listed in Table 1. DEQ has also created a list of urban cluster areas—those geographic areas with a population of at least 10,000 and a population density of at least 1,000 people per square mile, based on 2010 population statistics (Table 2).

Table 1. Idaho's urbanized areas (2010).

City	Population
Boise City[a]	349,684
Coeur d'Alene[a]	98,378
Idaho Falls[a]	90,733
Lewiston	51,924
Nampa[a]	151,499
Pocatello[a]	69,809

[a] Currently operating with an MS4 permit.

Table 2. Idaho's urban cluster areas (2010).

City	Population
Ammon	13,816
Blackfoot	15,352
Burley	15,977
Caldwell[a]	46,237
Chubbuck[a]	13,922
Garden City[a]	10,972
Hailey	10,453
Hayden	13,294
Jerome	10,892
Kuna	15,234
Meridian	75,092
Moscow	24,212
Mountain Home	16,531
Post Falls[a]	27,574
Rexburg	26,852
Sandpoint	10,840
Twin Falls	48,836

[a] Currently operating with an MS4 permit.

DEQ will work closely with all candidate MS4s to answer designation criteria questions and will consider all reasonably available information for a particular candidate MS4 prior to making a final designation. Sources of information include, but are not limited to, US Census Bureau statistics, state-published Clean Water Act §303(d) lists, EPA-approved TMDLs, other supplementary information provided by the candidate MS4, and/or other sources.

The flow chart in Figure 1 details the process DEQ will use to determine candidate MS4s for regulation under the Phase II storm water rule.

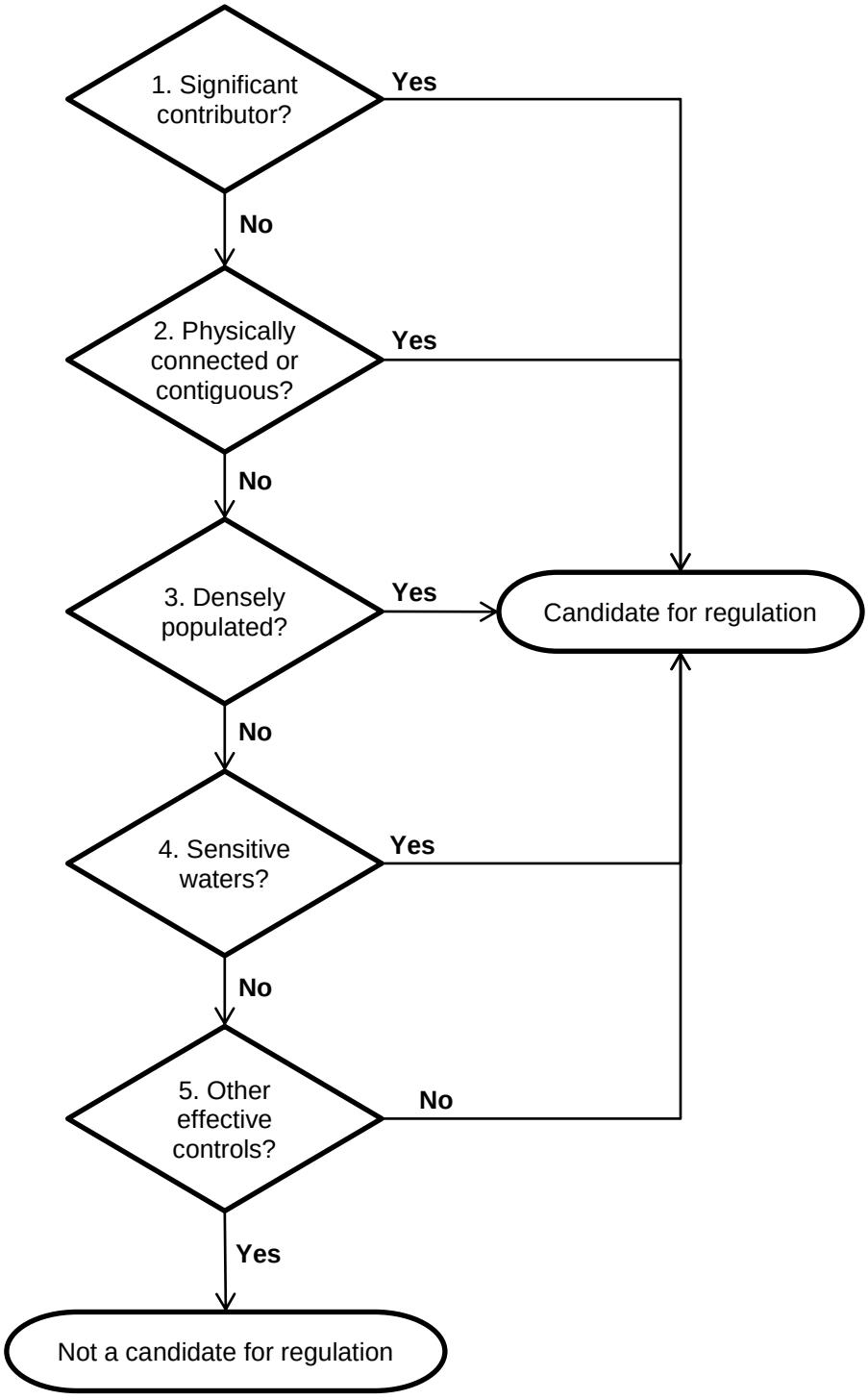

Figure 1. Process DEQ will use to determine MS4 candidates for regulation under the Phase II storm water rule. Once a small MS4 has been identified as a candidate for regulation, DEQ will work with the MS4 to determine the appropriate programmatic outcomes.

Glossary

Note: This glossary is provided for informational purposes only; legal definitions of these terms can be found at 40 CFR §122.26(b) or in the Phase II final rule, published December 8, 1999 (64 FR 68722).

Municipal separate storm sewer (MS4) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that meets the following criteria:

- Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under §208 of the Clean Water Act that discharges to waters of the United States
- Designed or used for collecting or conveying storm water
- Is not a combined sewer
- Is not part of a publicly owned treatment works (POTW) as defined at 40 CFR §122.2

Physically interconnected means that one MS4 is connected to a second MS4 in such a way that it allows for direct discharges to the second system.

Regulated small MS4 means an MS4 that is automatically designated for inclusion in the Phase II storm water permitting program by its location within an urbanized area or by designation by the NPDES permitting authority.

- *Small MS4* means all MS4s that are not defined as "large" or "medium" municipal separate storm sewer systems pursuant to 40 CFR §§122.26 (b)(4) and (b)(7).
- This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings (40 CFR §122.26(b)(16)).

Storm water means storm water runoff, snowmelt runoff, and surface runoff and drainage.

Urbanized area and urban clusters are defined in the most recent decennial census. For Census 2010, the Census Bureau classifies "urban" as all territory, population, and housing units located within an urbanized area (UA) or an urban cluster (UC). It delineates UA and UC boundaries to encompass densely settled territory that consist of core census block groups or blocks that have a population density of at least 1,000 people per square mile and surrounding census blocks that have an overall density of at least 500 people per square mile. In addition, under certain conditions, less densely settled territory may be part of each UA or UC. **Note: The Census Bureau announced the Census 2010 Urban Areas on March 27, 2012. More information can be found at** *http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml*.