



WATER BUREAU
POLICY AND PROCEDURES

NUMBER:	WB-03-027	
SUBJECT:	SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER	
EFFECTIVE DATE:	JULY 28, 2005	PAGE: 1 OF 9
REVISION DATE:	(5-YEAR REVIEW FREQUENCY)	

Issue:

The purpose of this document is to provide guidance to Department of Environmental Quality (DEQ), Water Bureau (WB), staff regarding certain jurisdictional issues relating to the Part 21 rules, Wastewater Discharge Permits, promulgated under Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. It is the goal of the WB that decisions made by staff regarding the use of this document be legally correct, consistent, and complement the requirements of the federal Clean Water Act.

This guidance is intended to clarify certain provisions of Part 31 and to provide information to encourage consistent administration of these provisions by WB staff. It is not intended to modify the provisions of Part 31, and should there be any apparent inconsistency between this guidance and statutory and administrative rule requirements, the language in the statute and rules should guide staff decisions.

This procedure is intended to provide a framework for making consistent designations by the DEQ pursuant to Rule 2161(1) that a storm water discharge causes or contributes to a violation of Water Quality Standards (WQS), or is a significant contributor of pollutants, and is therefore required to obtain a discharge permit.

Policy:

There are four portions of Rule 2161(1) that allow the DEQ to make such designations – (a)(ii), (d), (e), and (f). In addition, there is the ability for outside parties to submit petitions to the DEQ requesting designation under (g). The process for designations for each of these portions is presented below.

Definitions:

Significant Contributor of Pollutants means a discharge that:

1. Contributes to a pollutant loading that may reasonably be expected to adversely affect the quality or uses of a water body; or
2. Destabilizes the physical structure of a water body such that the discharge may reasonably be expected to adversely affect the quality or uses of that water body.

Examples of discharge types that may be significant contributors of pollutants include:

- Operations such as transfer stations, truck and bus transportation, warehouses, grain elevators, and marinas that would not fall under the industrial storm water regulations because of exceptions such as primary source of income, but for whom runoff quality does

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER:	WB-03-027	
SUBJECT:	SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER	
EFFECTIVE DATE:	JULY 28, 2005	PAGE: 2 of 9
REVISION DATE:	(5-YEAR REVIEW FREQUENCY)	

not differ from their regulated counterparts, unless the discharger can demonstrate “no exposure.”

- Facilities that demonstrate “no exposure” of industrial activities, but which have discharges from nonindustrial areas that do or will contribute to degradation of water quality.
- Commercial operations such as a “superstore” or a mall where the acreage of impervious surfaces, without suitable on-site capture of runoff, results in runoff that does or will contribute to degradation of water quality.
- Commercial operations such as gas stations and truck stops where common exposure of significant materials like gasoline drips and spills contribute to contaminated runoff.
- Municipal Separate Storm Sewer Systems (MS4s) not currently designated for coverage that contribute to degradation of water quality.

Note: Certain discharges do not require National Pollutant Discharge Elimination System (NPDES) permits per Rule 2189(a), which incorporates by reference Title 40 of the Code of Federal Regulations (CFR), Section 122.3(e), Exclusions. This covers any introduction of pollutants from nonpoint source agricultural and silvicultural activities.

Urbanizing Area means an area of contiguous census blocks with population densities of 1,000 persons or more per square mile that together have a population of 10,000 people or more, as determined by the latest available decennial census [Rule 2104(u)].

Designation Process for Rules 2161(1)(a)(ii) and (1)(f)

Rule 2161(1)(a)(ii) states:

“Notwithstanding the provisions of this subdivision, the department retains the authority to require national permit authorization, and deny this exclusion, upon making a determination that the discharge causes, has a reasonable potential to cause, or contributes to, a violation of an applicable water quality standard.”

Rule 2161(1)(f) states:

“A discharge, or category of discharges within a geographic area, that is determined by the department to be a significant contributor of pollutants to waters of the state, or to contribute to a violation of water quality standards, or to contribute substantially to the pollutant loadings of a physically interconnected, regulated MS4.”

Process:

1. The district staff concludes that there is a significant contribution or reasonable potential for significant contribution of pollutants from a storm water discharge and that the discharge would not automatically be required to apply for NPDES permit coverage. This process may also be initiated by the Surface Water Assessment Section (SWAS).
2. The district supervisor submits a description of the problem and the associated data, including discharge characterization data, to the SWAS for review.
3. The SWAS reviews the information to determine if there is a reasonable potential to violate WQS. The SWAS may conduct further assessment if a determination cannot be made with the available information.

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER:	WB-03-027	
SUBJECT:	SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER	
EFFECTIVE DATE:	JULY 28, 2005	PAGE: 3 of 9
REVISION DATE:	(5-YEAR REVIEW FREQUENCY)	

4. The SWAS will provide their assessment to the Permits Section (PS), with a copy to the district office.
5. If a designation is recommended, the PS will send a recommendation to the WB chief and copy the district office and the SWAS.
6. The WB chief will notify the district office, the PS, and the SWAS of the final determination.
7. If the WB chief designates that a permit is needed, the PS will notify the regulated entity in writing of the need to apply for a permit.

Discharges may be designated under Rule 2161(1)(a)(ii) if they qualify under Rule 2161(1)(f) but have been granted exclusion from storm water regulation because of "no exposure" of industrial activities to storm water. In this case, the designation must be the result of contamination from nonindustrial activities.

Designation Process for Rule 2161(1)(d)

Rule 2161(1)(d) states:

"An MS4 located within an urbanizing area, which is designated by the department to need a national permit on the basis that it discharges storm water which results in a violation of water quality standards or which would imminently result in a violation of water quality standards in the absence of regulation."

Process:

1. At any time, the SWAS, the PS, or the district office may recommend that an MS4 located in an urbanizing area (Attachment 1), which has discharges that result in a violation of WQS or would imminently result in a violation of WQS in the absence of regulation, be evaluated. This recommendation will be forwarded with the appropriate information to the other two parties for their review.
2. All comments will be forwarded to the PS.
3. The PS forwards the final recommendation to the WB chief.
4. The WB chief will notify the district office, the PS, the SWAS, and Field Operations Division of the final determination.
5. If the WB chief designates that an NPDES permit is needed, the PS will notify the regulated entity in writing of the need to apply for a permit.

Designation Process for Rule 2161(1)(e)

Rule 2161(1)(e) states:

"Designation from the department that storm water controls are needed for the discharge based on wasteload allocations that are part of total maximum daily loads (TMDLs) developed by the department that address the pollutants of concern."

Process:

1. The SWAS lists a water body on the Section 303(d) list due to violations of WQS and develops or is scheduled to develop a TMDL.

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER:	WB-03-027	
SUBJECT:	SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER	
EFFECTIVE DATE:	JULY 28, 2005	PAGE: 4 of 9
REVISION DATE:	(5-YEAR REVIEW FREQUENCY)	

2. If the TMDL water body receives contributions of the pollutant of concern from unpermitted storm water sources, the SWAS discusses with the PS and district staff the significance of the contribution and the option to require NPDES permits for the sources, per Rule 2161.
3. The PS requests and obtains approval from the WB chief that storm water controls are needed for the discharge, based on wasteload allocations (WLA) that are or will be part of a TMDL.
4. Contingent upon the WB chief's approval, the SWAS will develop a draft TMDL or propose revision of the current TMDL incorporating the current unpermitted storm water sources under the WLA component.
5. The PS will notify the regulated entities in writing of the need to apply for permits.
6. The SWAS and the PS will concurrently public notice the draft TMDL and associated NPDES storm water permit(s).
7. The SWAS will work to final the TMDL and obtain approval from the United States Environmental Protection Agency (USEPA).
8. Once the TMDL is approved by the USEPA, the PS issues the NPDES storm water permit(s).

A TMDL is expressed by the following equation:

$$\text{TMDL} = \text{LA} + \text{WLA} + \text{MOS}$$

Where LA = load allocation (nonpoint sources)

WLA = wasteload allocation (point sources)

MOS = margin of safety to account for technical uncertainty in development of the TMDL

Note: In the development of TMDLs, unpermitted storm water discharges have typically been addressed under the load allocation component of the TMDL. Rule 2161(1)(e) would serve as a basis for recommending that these discharges be considered under the WLA component of a TMDL. Any discharge type that is eligible for designation as a significant contributor of pollutants is also eligible to be addressed under the WLA component of a TMDL.

Designation Process for Rule 2161(1)(g)

Rule 2161(1)(g) states:

"A storm water discharge that is the subject of a petition to the department to require a national permit, and the department determines that the discharger shall apply for a national permit in accordance with subdivision (f) of this subrule."

Process:

1. The PS receives a petition and makes a determination as to the completeness of the petition and acknowledges receipt of the petition within 90 days of receipt. Substantially incomplete petitions will be returned to the petitioner with guidance on what is needed to complete the petition package.
2. The PS notifies the discharger that the DEQ has been petitioned to determine whether or not the discharger needs to have permit coverage for the discharge.

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER:	WB-03-027	
SUBJECT:	SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER	
EFFECTIVE DATE:	JULY 28, 2005	PAGE: 5 of 9
REVISION DATE:	(5-YEAR REVIEW FREQUENCY)	

3. In accordance with 40 CFR, Section 122.26(f)(5), the DEQ shall make a final determination on any petition received within 90 days after receiving the complete petition. The exception to this time frame is a petition to designate a small MS4, in which case the DEQ shall make a final determination on the complete petition within 180 days after its receipt.
4. Petitions will be evaluated initially by the PS for the necessity of an NPDES storm water permit in accordance with Rule 2161(1)(f). The district staff and the SWAS will be involved in the assessment where appropriate.
5. The PS forwards the final recommendation to the WB chief.
6. The WB chief will notify the district supervisor, the PS, the SWAS, and Field Operations Division of the final determination. The PS will notify the involved external parties of the final determination.
7. If the WB chief designates that an NPDES permit is needed, the PS will notify the regulated entity in writing of the need to apply for a permit. The petitioner will be copied.
8. Either party may ask the DEQ to reconsider its decision regarding a petition by sending a letter to the DEQ. The procedure for response by the DEQ is the same as identified above.

Who is eligible to petition?

In accordance with 40 CFR, Section 122.26(f):

1. Any operator of an MS4 may petition the DEQ to require a separate NPDES permit for any discharge into the MS4.
2. Any person may petition the DEQ to require an NPDES permit for a discharge that is composed entirely of storm water that contributes to a violation of a WQS or is a significant contributor of pollutants to waters of the state.

What is required in a petition?

Petitions to permit a discharge must meet the following requirements:

1. Petitions must provide a name and contact information for the petitioner and the discharger.
2. A separate petition must be filed for each discharger.
3. A petition must be complete prior to consideration by the DEQ.
4. The petitioner must demonstrate that the petitioned entity is the source of or a significant contributor of pollutants to the waters of the state and show that there is a need for NPDES storm water permit coverage. For a petition pursuant to MS4s, the petition must show that the discharge flows or will flow into a permitted MS4.

What information may be used by the petitioner in making the demonstration?

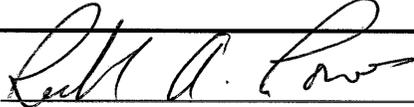
1. Monitoring data used to demonstrate that the petitioned entity is the source of or a significant contributor of pollutants to the receiving waters.
 - (a) Monitoring data may include representative sampling of the storm water discharges subject to the petition, documentation of visual parameters present, and/or photographic evidence.

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER: WB-03-027
SUBJECT: SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER
EFFECTIVE DATE: JULY 28, 2005 **PAGE:** 6 of 9
REVISION DATE: (5-YEAR REVIEW FREQUENCY)

- (b) Where a sampling is used, the petitioner must present information documenting how the sampling may be considered representative of the storm water discharges. The petitioner may present technical scientific literature to support the sampling methods.
- (i) Technical study information on land uses in the drainage area and the characteristics of storm water runoff from these land uses.
 - (ii) Documentation of the receiving waters' impairment or degradation.
 - (iii) A map delineating the drainage area of the petitioned entity, the location of sampling stations, the location of the storm water outfalls or discharge points in the adjacent area of the sampling locations, and general features such as surface waters, major roads, and political boundaries.
 - (iv) On a case-by-case basis, the DEQ may request additional information necessary to evaluate the petition.

This procedure will remain in effect until further notice and revision.

APPROVED:  _____ **DATE:** 8/10/05
Richard A. Powers, Chief
Water Bureau

LAST REVIEWED BY: _____ **DATE:** _____
Name
Title

Attachment

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER: WB-03-027
SUBJECT: SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER
EFFECTIVE DATE: JULY 28, 2005 **PAGE: 7 of 9**
REVISION DATE: (5-YEAR REVIEW FREQUENCY)

Attachment 1

Urbanizing Areas Based on the 2000 Census		
County	Cities/Villages/Townships	New Counties
Allegan	Gunplain Twp	Alpena
Allegan	Otsego City	Branch
Allegan	Otsego Twp	Chippewa
Allegan	Plainwell City	Delta
Alpena	Alpena City	Dickinson
Alpena	Alpena Twp	Grand Traverse
Bay	Auburn City	Gratiot
Bay	Williams Twp	Houghton
Branch	Batavia Twp	Ionia
Branch	Coldwater City	Isabella
Branch	Coldwater Twp	Lapeer
Branch	Girard Twp	Leelanau
Chippewa	Bruce Twp	Lenawee
Chippewa	Sault St Marie City	Marquette
Chippewa	Soo Twp	Mecosta
Delta	Escanaba City	Midland
Delta	Escanaba Twp	St. Joseph
Delta	Gladstone City	Van Buren
Delta	Wells Twp	Wexford
Dickinson	Breitung Twp	
Dickinson	Iron Mountain City	
Dickinson	Kingsford City	
Eaton	Benton Twp	
Eaton	Carmel Twp	
Eaton	Charlotte City	
Eaton	Eaton Twp	
Eaton	Potterville City	
Grand Traverse	Acme Twp	
Grand Traverse	Blair Twp	
Grand Traverse	East Bay Twp	
Grand Traverse	Garfield Twp	
Grand Traverse	Long Lake Twp	
Grand Traverse	Peninsula Twp	
Grand Traverse	Traverse City	
Gratiot	Alma City	
Gratiot	Arcada Twp	
Gratiot	Bethany Twp	
Gratiot	Pine River Twp	
Gratiot	St Louis City	

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER: WB-03-027
SUBJECT: SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER
EFFECTIVE DATE: JULY 28, 2005 **PAGE: 8 of 9**
REVISION DATE: (5-YEAR REVIEW FREQUENCY)

Attachment 1 (continued)

County	Cities/Villages/Townships	New Counties
Houghton	Adams Twp	
Houghton	Chassell Twp	
Houghton	Franklin Twp	
Houghton	Hancock City	
Houghton	Houghton City	
Houghton	Osceola Twp	
Houghton	Portage Twp	
Houghton	Quincy Twp	
Ionia	Berlin Twp	
Ionia	Easton Twp	
Ionia	Ionia City	
Ionia	Ionia Twp	
Isabella	Chippewa Twp	
Isabella	Lincoln Twp	
Isabella	Mt Pleasant City	
Isabella	Union Twp	
Lapeer	Elba Twp	
Lapeer	Lapeer City	
Lapeer	Lapeer Twp	
Lapeer	Mayfield Twp	
Lapeer	Oregon Twp	
Leelanau	Elmwood Twp	
Lenawee	Adrian City	
Lenawee	Adrian Twp	
Lenawee	Madison Twp	
Lenawee	Palmyra Twp	
Lenawee	Raisin Twp	
Lenawee	Tecumseh City	
Lenawee	Tecumseh Twp	
Marquette	Chocolay Twp	
Marquette	Ishpeming City	
Marquette	Ishpeming Twp	
Marquette	Marquette City	
Marquette	Marquette Twp	
Marquette	Negaunee City	
Marquette	Sands Twp	
Mecosta	Big Rapids City	
Mecosta	Green Twp	
Midland	Edenville Twp	
Midland	Homer Twp	

**WATER BUREAU
POLICY AND PROCEDURES**

NUMBER: WB-03-027
SUBJECT: SIGNIFICANT CONTRIBUTOR DESIGNATIONS FOR STORM WATER
EFFECTIVE DATE: JULY 28, 2005 **PAGE: 9 of 9**
REVISION DATE: (5-YEAR REVIEW FREQUENCY)

Attachment 1 (continued)

County	Cities/Villages/Townships	New Counties
Midland	Jerome Twp	
Midland	Larkin Twp	
Midland	Midland City	
Midland	Midland Twp	
Midland	Sanford Village (w/in Jerome Twp)	
Shiawassee	Rush Twp	
Shiawassee	Caledonia Twp	
Shiawassee	Corunna City	
Shiawassee	Owosso City	
Shiawassee	Owosso Twp	
St. Joseph	Burr Oak Twp	
St. Joseph	Fawn River Twp	
St. Joseph	Sherman Twp	
St. Joseph	Sturgis City	
St. Joseph	Sturgis Twp	
Van Buren	Antwerp Twp	
Van Buren	Lawton Village (w/in Antwerp Twp)	
Van Buren	Mattawan Village (w/in Antwerp Twp)	
Van Buren	Paw Paw Twp	
Van Buren	Paw Paw Village (w/in Paw Paw Twp)	
Van Buren	Waverly Twp	
Wexford	Cadillac City	
Wexford	Cherry Grove Twp	
Wexford	Haring Twp	
Wexford	Selma Twp	