

## Local School District Decision Tree for MS4 Determination

Each school property within a school district needs to be evaluated separately.  
Contiguous properties are considered as one.  
Any **no** answers will likely result in eligibility for a **waiver**<sup>1</sup> from the program.

1. Does the school property in question have more than a single building? In 40 CFR 122.26(b)(16)iii, EPA clarifies that the definition of small MS4 does not include individual buildings. The NYSDEC defines a building as schools, administration and office buildings, maintenance and bus garages, athletic buildings, equipment and grounds keeping buildings, but not sheds (If yes goto 2)
2. Is the school property in question located wholly or partially within the Automatically Designated Urbanized Areas or the New York State Additionally Designated Areas?  
Check the interactive map on DEC's website  
<http://www.dec.ny.gov/imsmaps/stormwater/viewer.htm> to help determine whether your district has school property located within the Automatically Designated Urbanized Areas or the Additionally Designated Areas boundaries. (If yes goto 3)
3. Does the property in question have a daytime population of more than 1000 students/staff?  
(If yes goto 4) if no, then see waiver criteria below taken from EPA factsheet 2.1 at <http://www.epa.gov/npdes/pubs/fact2-1.pdf>. Property may be eligible for a waiver.  
(If not eligible for waiver goto 4)
4. This property is subject to the MS4<sup>2</sup> phase II program requirements

### <sup>1</sup> Waiver Criteria

(1) the jurisdiction served by the system is less than 1,000 people; (2) the system is not contributing substantially to the pollutant loadings of a physically interconnected regulated MS4; and (3) if the small MS4 discharges any pollutants identified as a cause of impairment of any water body to which it discharges, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern.

### <sup>2</sup> Definition of an MS4

40 CFR 122.26(b)(8) "municipal separate storm sewer 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):

(i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law)...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 section 208 of the Clean Water Act that discharges into the waters of the United States." (Note: "Waters of the United States" refers to surface water only.)

(ii) "Designed or used for collecting or conveying storm water

(iii) Which is not a combined sewer; and

(iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2" According to 40 CFR 122.26(b)(16)iii, small MS4s (population less than 100,000) "includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospitals or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas such as individual buildings."