

Phase II Storm Water Permit Guidance for Determining Nested Jurisdictions Needing Permit Coverage

What is a “nested jurisdiction”?

A nested jurisdiction is a **public** institution or facility with that lies within the permitted area. If your community is pursuing a jurisdictional permit, the permitted area is the urbanized area in your community. If your community is pursuing a watershed-based permit, the permitted area is your urbanized area and your area within the watershed boundary.

What is your community required to do?

Communities applying for the storm water permit need to identify the nested jurisdictions in their community, and determine if those nested jurisdictions need permit coverage.

What do you need to submit with your permit application?

Though the permit application is not yet available, you should plan to submit the name and address of each nested jurisdiction that, based on your evaluation, needs permit coverage. You should also indicate if these nested jurisdictions already have permit coverage, are applying for permit coverage on their own, will be covered by your community’s permit, or if they have not made a decision on coverage.

The MDEQ would like the community to show the locations of the nested jurisdictions on the map that will be submitted with the application

What are the criteria for determining if a nested jurisdiction needs permit coverage?

The MDEQ and EPA rules indicate that nested jurisdictions with separate storm sewer “systems” are regulated and need permit coverage. There are no clear cut rules or criteria for determining what constitutes a “system” although EPA indicates that a site with a single building generally would not have a “system”. A site would need to have some type of conveyance system to be regulated (i.e., pipes, ditches and/or swales). Sites with only sheet runoff are not regulated.

In the absence of specific criteria from MDEQ and/or USEPA, each community must use its best judgment in determining if an entity within its community boundaries should have permit coverage or not.

The information in this document is provided as guidance to help communities make informed decisions about their nested jurisdictions.

Types of nested jurisdictions that communities should review and/or consider:

- Universities, colleges and/or community colleges
- Schools districts and/or public school properties (including administrative buildings)
- Public parks that are not owned/operated by the community, such as Metro Park or State Park
- Correctional facilities

- State or county mental health complexes
- County, state or federal governmental complexes
- Military facilities

Communities do not need to review or consider the following entities:

- Community's fire department, police department and/or public works department – the community's permit will automatically cover any and all community properties and services. As part of the Public Education Plan (PEP), Illicit Discharge Elimination Plan (IDEP) and storm water management plan, each community will need to look at all of its facilities and activities. The various departments do not need to obtain separate permits.
- MDOT – will be applying for its own permit
- County Drain Commissioners
- County Road Commission
- Other county buildings and complexes
- Private Schools, condominiums, shopping centers, mobile home parks – the community already has control of these entities through its ordinances and/or site review process
- Municipal wastewater treatment plants – they are already regulated via the industrial storm water program and their existing NPDES discharge permits will be modified by MDEQ to incorporate storm water control requirements.
- Private industrial sites – they are covered by industrial storm water regulations.

Disclaimer:

Hubbell, Roth & Clark, Inc. has developed this guidance on behalf of the South Branch Shiawassee and Huron River Chain of Lakes watershed groups. This guidance has not been approved by MDEQ.

What if you're still not sure if a nested jurisdiction needs permit coverage?

If you have used the checklist and still are not sure, you can contact your district MDEQ representative and ask for a final determination. You may also consider attaching the checklist to your permit application.

Checklist:

The following "checklist" highlights areas of potential storm water concern to help you decide if a nested jurisdiction needs permit coverage or not.

- A. Would you consider the nested jurisdiction to be a "complex" rather than a single building?
- B. Does the jurisdiction/site have a storm water conveyance "system" consisting of four or more pipes, swales, or ditches? At some public meetings, MDEQ has indicated that a "system" is considered to be four or more intersecting pipes, however MDEQ has not provided a formal definition in writing.
- C. How many "outfalls" does the potential nested jurisdiction have?

- D. How large is the site? (There is no magic number, but the size of the site, in conjunction with other information may help you decide if permit coverage is needed.)
- E. Does the nested jurisdiction store chemicals, fertilizers, pesticides, road salt or other materials that could impact storm water quality?
- F. Does the nested jurisdiction use or apply chemicals, fertilizers, pesticides, road salt or other polluting materials that could impact storm water quality? (For this item, keep in mind that a jurisdiction may not store chemicals, but may apply them via a lawn care provider or other subcontractor.)
- G. Does the nested jurisdiction conduct vehicle maintenance at its site?
- H. Does the nested jurisdiction have large and/or significant impervious areas (such as parking lots) that could create flow and/or erosion problems?
- I. Is the nested jurisdiction served by an On-Site Disposal System (OSDS) (e.g., septic tank/tile field)?
- J. Does the nested jurisdiction have on-site retention ponds or other storm water facilities?

Guidance developed by Hubbell, Roth & Clark, Inc.
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Table 1: Checklist with examples

Nested Jurisdiction	A	B	C	D	E	F	G	H	I	J	Assessment of Need for Permit Coverage
	complex?	system?	# outfalls	acres	chemical storage?	chemicals applied?	vehicle maint?	Imperv. areas?	OSDS?	retention?	
Washington Elementary School Smallville School District 123 Main Street Smallville, Michigan	no 1 bldg	no	0	1	no	yes lawn, playground	no	no small parking lot	no	no	No need for permit coverage;
Jefferson High School Smallville School District 456 Townsend Street Smallville, Michigan	yes 5 bldgs; athletic fields, parking lots	yes 5 catch basins; 5 yard drains; 6 storm lines	3 direct outfalls to Smith Creek	5	yes fertilizers; road salt; gasoline;	yes fertilizers, road salt	no	no large parking lots and roof areas		no	School district should have permit coverage for high school.
Big Pond State Park MDNR	no several small buildings, spread out	yes storm lines from parking areas to lakes	6	150	yes small volumes of cleaning materials	yes	yes vehicle maint. garage	no roads and parking areas, but small percentage of total land area	no rest rooms on public sewer	no	Permit coverage needed due to storm system; also, provides opportunity for public education; probably a willing participant in watershed planning group.

Table 2: Checklist

