



MONTANA  
ADMINISTRATIVE  
REGISTER



DEPARTMENT OF ENVIRONMENTAL QUALITY

---

**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2026-489.1**

**Summary**

Amendment to ARM 17.30.201, 17.30.1102, and 17.30.1107 pertaining to Montana Pollutant Discharge Elimination System (MPDES) permits, definitions, and designation procedures for small municipal separate storm sewer systems (MS4s)

---

**Hearing Date and Time**

Friday, May 22, 2026, at 2:00 p.m.

**Hearing Information**

Wilderness Room at 2401 Colonial Drive, Helena, Montana

**Virtual Hearing Information**

Interested parties may also attend the hearing electronically in the following ways:

Please click the link below to join the webinar:

Join from PC, Mac, iPad, or Android:

<https://mt-gov.zoom.us/j/84394001081?pwd=oS98EdaEI0nLefXakfzojBcwzhIAq.1>  
Passcode:815267

Phone one-tap:

+12133388477,,84394001081#,,,,\*815267# US (Los Angeles)

+12063379723,,84394001081#,,,,\*815267# US (Seattle)

Join via audio:

+1 213 338 8477 US (Los Angeles)

+1 206 337 9723 US (Seattle)

+1 646 558 8656 US (New York)

Webinar ID: 843 9400 1081

Passcode: 815267

International numbers available: <https://mt-gov.zoom.us/j/kd4DbqBBTj>

Join from an H.323/SIP room system:

H.323: 144.195.19.161 (US West) or 206.247.11.121 (US East)

Meeting ID: 843 9400 1081

Passcode: 815267

SIP: 84394001081@zoomcrc.com

Passcode: 815267

## Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, May 22, 2026, at 5:00 p.m.

---

## Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, May 12, 2026, at 5:00 p.m.

---

## Contact

Legal Unit

(406) 444-1388

DEQMAR489@mt.gov

---

## Rulemaking Actions

### AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

**17.30.201 PERMIT APPLICATION, DEGRADATION AUTHORIZATION, AND ANNUAL PERMIT FEES**

- (1) through (7) remain the same.
- (8) The annual permit fees are set forth in Schedules III.A, III.B, and III.C. No annual fee is required for activities listed in Schedule I.D.
  - (a) through (c) remain the same.
  - (d) Annual fees in Schedule III.C for authorizations under the general permit for municipal separate storm sewer systems (MS4s) are ~~determined by population in an urbanized area as defined by~~ based on population as determined by the latest decennial census from the United States Census Bureau. The fees must be based on the latest available decennial census data.

Schedule III.C remains the same.

- (e) and (f) remain the same.
- (9) through (11) remain the same.

**Authorizing statute(s):** 75-5-516, MCA

**Implementing statute(s):** 75-5-516, MCA

**Reasonable Necessity Statement**

The amendments to ARM 17.30.201(8)(d) update the rule language to reflect current federal terminology. The term “urbanized area” has been removed from federal regulation, and this amendment removes the term from state rule. This change ensures consistent population-based terminology throughout the rule.

**17.30.1102 DEFINITIONS**

In this subchapter, the following terms have the meanings or interpretations indicated below and shall be used in conjunction with and are supplemental to those definitions contained in 75-5-103, MCA. If not defined in this rule, terms used in this subchapter have the meanings set out in the definitions in ARM Title 17, chapter 30, subchapter 13.

- (1) through (22) remain the same.
- (23) "Small municipal separate storm sewer system" means:

- (a) small MS4s, and portions of them, that are located in the following ~~urbanized areas~~ urban areas with a population of 50,000 or more people in Montana as determined by the latest decennial census by the United States ~~census bureau~~ Census Bureau:
  - (i) the city of Billings and Yellowstone County;
  - ~~(ii) the city of Missoula and Missoula County; and~~
  - (ii) the city of Bozeman and Gallatin County;
  - (iii) the city of Great Falls and Cascade County;
  - ~~(iv) the city of Helena, city of East Helena, and Lewis and Clark County; and~~
  - (v) the city of Missoula and Missoula County;
- (b) the following small MS4s serving a population of at least 10,000 as determined by the latest decennial census by the United States ~~census bureau~~ Census Bureau and that are located outside of an ~~urbanized area~~ urban area with a population of 50,000 or more people:
  - (i) MS4s located in the city of ~~Bozeman~~ Belgrade;
  - (ii) MS4s located in the city of Butte; and
  - ~~(iii) MS4s located in the city of Helena; and~~
  - ~~(iv)~~(iii) MS4s located in the city of Kalispell;

(c) and (d) remain the same.

(24) through (35) remain the same.

**Authorizing statute(s):** 75-5-201, 75-5-401, MCA

**Implementing statute(s):** 75-5-401, MCA

**Reasonable Necessity Statement**

The amendments to ARM 17.30.1102(23)(a) are necessary to conform to the new terminology used in federal regulations, including EPA’s 2023 revisions to its Phase II storm water regulations that concern small municipal separate storm sewer systems (MS4s). 88 Fed. Reg. 37994 (June 12, 2023). The term “urbanized area” has been removed from federal regulation and replaced with “urban area with a population of 50,000 or more people as determined by the latest decennial census by the United States Census Bureau.” In the amendments to state rules, this language now appears in place of “urbanized area” to maintain consistency with

federal requirements. The amendments to (23)(a) also delete “in Montana” because the reference is unnecessary.

In addition, the department proposes to amend ARM 17.30.1102(23)(a) to update the list of small MS4s that are automatically subject to MS4 permitting requirements under federal law. Small MS4s in the City of Bozeman and Gallatin County and the City of Helena, the City of East Helena, and Lewis and Clark County are being added to the existing list that includes small MS4s in the City of Billings and Yellowstone County, the City of Missoula and Missoula County, and the City of Great Falls and Cascade County. Because these small MS4s are located in urban areas with a population of 50,000 or more people as determined by the latest decennial census by the U.S. Census Bureau, they are subject to small MS4 permitting requirements. These definitional additions are necessary because of population increases identified in the 2020 decennial census and are not related to the federal terminology changes referenced above. Upon designation, the operator of any small MS4 must obtain Montana Pollutant Discharge Elimination System (MPDES) permit coverage and develop a stormwater management program to control their discharges of pollutants to state surface waters.

ARM 17.30.1102(23)(b) is also amended to reflect changes in MS4 designation status. The amendments add the MS4 operated by the City of Belgrade, which now meets designation criteria in ARM 17.30.1107(2), and removes the cities of Bozeman and Helena, because their small MS4 designations are now automatic under federal law. DEQ applied the designation criteria in ARM 17.30.1107(2) to the City of Belgrade’s small MS4 and concluded that designation as a regulated MS4 was necessary. The criteria require MPDES permit regulation of a small MS4 if its stormwater discharges result in, or have the potential to result in, exceedances of state water quality standards, including the impairment of designated uses, or have other significant water quality impacts. Under ARM 17.30.1107(2)(b), Belgrade’s small MS4 also represents a high-priority evaluation because its combined permanent and seasonal population exceeds 10,000, as confirmed in the most recent Decennial Census. DEQ considered the criteria in ARM 17.30.1107(2)(a)(i) through (v), including discharges to impaired waters, high growth or growth potential, high population density, contiguity to an urban area with a population of at least 50,000, and significant contribution of pollutants to surface waters. The department’s analysis of the criteria demonstrates that the City of Belgrade’s small MS4 must be designated under ARM 17.30.1107(2) and that the City of Belgrade must therefore be subject to small MS4 permitting requirements. DEQ’s decision to designate the City of Belgrade’s small MS4, upon final adoption of this rule, is further supported in the document entitled *MPDES MS4 Designation: City of Belgrade* (DEQ 2026), available at <https://deq.mt.gov/water/assistance>.

### **17.30.1107 DESIGNATION PROCEDURES: SMALL MS4S**

(1) remains the same.

- (2) The department shall designate an MS4 other than those identified in ARM 17.30.1102(23) if a discharge from the MS4 results in, or has the potential to result in, exceedances of water quality standards, including impairment of designated uses, or has other significant water quality impacts, including habitat and biological impacts. In making a designation under this subsection, the department shall:
- (a) consider whether the MS4:
    - (i) has discharges to a listed impaired waterbody that is on the most recent 303(d) list;
    - (ii) has high growth or growth potential;
    - (iii) has high population density;
    - (iv) is contiguous to an ~~urbanized area~~ urban area with a population of 50,000 or more people as determined by the latest decennial census by the United States Census Bureau; and
    - (v) is a significant contribution of pollutants to surface waters; and
  - (b) place a high priority on evaluating small MS4s that have a combined permanent and seasonal population of over 10,000, as determined by the latest decennial census by the United States ~~census bureau~~ Census Bureau plus the number of commercially advertised bedroom accommodations that will allow for an overnight stay, as listed through the chamber of commerce, or any local resort or property management company.
- (3) and (4) remain the same.
- (5) The department may designate discharges from municipal separate storm sewers on a system-wide or on a jurisdiction-wide basis. In making its designation the department may consider the following factors:
- ~~(i)~~(a) the location of the discharge with respect to surface waters;
  - ~~(ii)~~(b) the size of the discharge;
  - ~~(iii)~~(c) the quantity and nature of the pollutants discharged to surface waters; and
  - ~~(iv)~~(b) other relevant factors.
- (6) through (9) remain the same.
- (10) The department may waive the permit requirements of this subchapter for an MS4, which would otherwise be regulated because it is located within an ~~urbanized area~~ urban area with a population of 50,000 or more people as determined by the latest decennial census of the United States Census Bureau, if the MS4 serves a population of under 1,000 and both of the following criteria are met:
- (a) and (b) remain the same.

(11) The department may waive the permit requirements of this subchapter for an MS4, which would otherwise be regulated because it is located within an ~~urbanized area~~ urban area with a population of 50,000 or more people as determined by the latest decennial census by the United States Census Bureau, if the MS4 serves a population of between 1,000 and 10,000 and both of the following criteria are met:

(a) and (b) remain the same.

(12) and (13) remain the same.

**Authorizing statute(s):** 75-5-201, 75-5-401, MCA

**Implementing statute(s):** 75-5-401, MCA

### **Reasonable Necessity Statement**

The amendments to ARM 17.30.1107(2)(a)(iv), (10), and (11) are necessary to conform with federal regulations, including EPA’s 2023 revisions to the Phase II storm water regulations. The term “urbanized area” has been removed from federal regulation and replaced with “urban area with a population of 50,000 or more people as determined by the latest decennial census of the United States Census Bureau.” This language now appears in place of “urbanized area” to maintain consistency with federal requirements while maintaining the existing population threshold that triggers automatic small MS4 designation and existing waiver requirements.

The amendments do not alter the structure or effect of the designation or waiver provisions in ARM 17.30.1107, and all criteria and thresholds remain unchanged. The amendments make only terminology updates to align with current federal usage and census classifications.

---

### **Small Business Impact**

The department has concluded that the proposed rulemaking will not significantly and directly affect small businesses. The rule affects certain MS4s which are owned or operated by governmental subdivisions of the state or other public bodies created by or pursuant to Montana law. ARM 17.30.1102(13)(a). The proposed amendments do not regulate or directly affect small businesses and do not impose new fees or new permit obligations on private entities. The proposed amendments revise portions of the definition of Municipal Separate Storm Sewer System (MS4) to conform with current federal terminology and clarify which jurisdictions meet the federal automatic designation threshold based on the 2020 Census by the United States Census Bureau. Additionally, and through these amendments, the City of Belgrade will be newly designated as a regulated MS4 under the state’s discretionary criteria. The City of Helena, the City of East Helena, the City of Bozeman, Gallatin County, and Lewis and Clark County are designated as MS4s because their census-defined urban areas now exceed the federal population threshold required for automatic designation under the federal Phase II

rules. This is a requirement associated with the Federal Clean Water Act and its related federal implementation regulations. These amendments do not change the requirements of the MS4 program but identify which jurisdictions are covered under it.

The City of Bozeman and the City of Helena already operate MS4 programs under prior discretionary designation, and their shift to federal automatic designation is not expected to create any impacts on small businesses beyond those already associated with their existing storm water programs.

The proposed rule amendments are necessary to comply with federal regulatory changes and are also necessary to include the City of Belgrade as the owner or operator of a regulated MS4. These amendments are not expected to result in significant and direct effects on small businesses.

Small businesses are not directly subject to MS4 permit conditions, but they may be indirectly affected by how designated jurisdictions implement their stormwater programs. Designation requires each MS4 to develop and implement a storm water management program inclusive of the six minimum control measures (MCMs): Public Education and Outreach, Public Involvement and Participation; Illicit Discharge Detection & Elimination; Construction Site Storm Water Runoff Management; Post-Construction Site Storm Water Management in New Development and Redevelopment; and Pollution Prevention/Good Housekeeping for Permittee Operations. As jurisdictions carry out these storm water program responsibilities, small businesses that own, develop, or manage property within MS4 boundaries, or that conduct activities that interact with MS4s, may experience secondary or downstream impacts associated with the development and implementation of these program elements.

In addition to the development and implementation of stormwater program responsibilities required under MS4 designation, some local governments may establish or expand stormwater utilities, water and sewer districts, or local water quality protection districts to fund and support their stormwater programs. If such mechanisms are adopted, small businesses located within these jurisdictions could experience associated service fees or assessments depending on local rate structures. These effects would result from local implementation and funding decisions made in response to the program responsibilities triggered by the proposed amendments and may indirectly impact small businesses depending on how jurisdictions structure and fund their storm water management program.

Additional documentation of the department's small business impact analysis is available upon request.

---

### **Bill Sponsor Notification**

The bill sponsor contact requirements do not apply.

---

## **Interested Persons**

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact above or may be made by completing a request form at any rules hearing held by the department.

---

## **Rule Reviewer**

Jonathan Morgan

## **Approval**

Sonja Nowakowski, Director