

Montana Municipal Separate Storm Sewer System (MS4) Rulemaking Update

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January 29, 2026

Background, History, and Authority

- Federal stormwater regulations require urbanized areas to obtain permit coverage under the state's General Permit for Stormwater Discharges Associated with Small Municipal Separate Storm Sewer Systems (MS4s).
- Montana has primacy over administering stormwater permits as part of the Montana Pollutant Discharge Elimination System (MPDES), and issued the first Small MS4 General Permit in 2004, which became effective in 2005.
- The permit requires all MS4s to implement storm water management programs and best management practices to reduce stormwater pollutants to the maximum extent practicable.

What is a Municipal Separate Storm Sewer System (MS4)?

According to 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):

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 waters of the United States.

- (i) Designed or used for collecting or conveying stormwater;
- (ii) Which is not a combined sewer; and
- (iii) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.”

How an MS4 Becomes an MS4

- Federal stormwater regulations require nationwide coverage of all operators of small MS4s that are located within the boundaries of a U.S. Census Bureau-defined urbanized area based on the latest decennial Census.
- These are broken into two sub-categories:
 - Federal Automatic Small MS4s
 - State Discretionary Small MS4s

According to the 2020 Census, an **urban area** represents densely developed territory, and encompass residential, commercial, and other nonresidential urban land uses. Each urban area must encompass at least 2,000 housing units or at least 5,000 people. See FAQ p. 2 for more information ([2020 Urban Areas Frequently Asked Questions \(census.gov\)](#)).

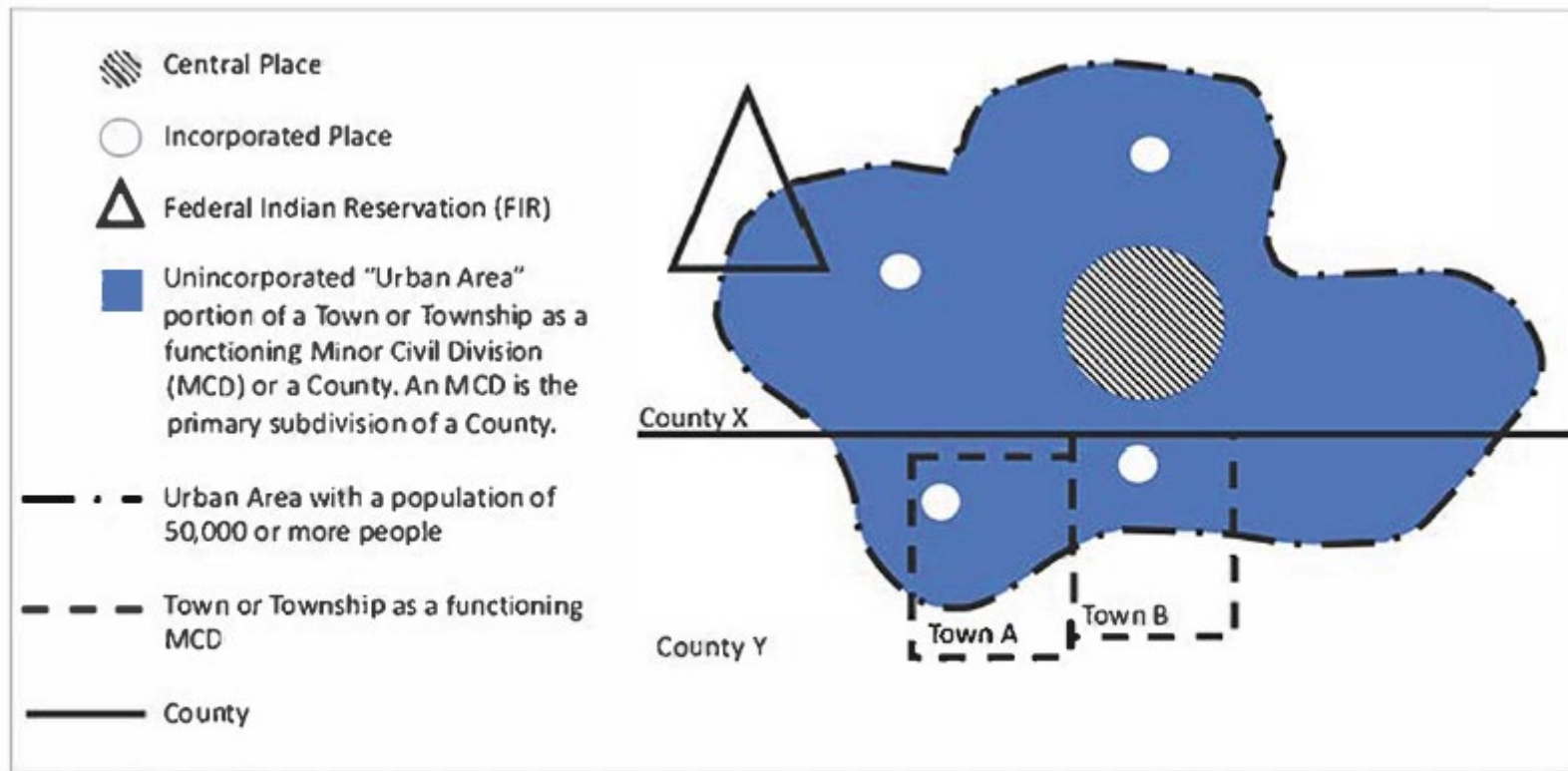


Figure 1. Urban Area Illustration Example

Why Stormwater is Regulated

- Stormwater discharges are a concern because of the high concentration of pollutants found in these discharges, often conveyed directly to state waters without treatment.
- Common stormwater pollutants that can be discharged include pesticides, fertilizers, oils and grease, hydrocarbons, solvents, acids, salt, metals, bacteria, litter and other debris, and sediment.
- When left uncontrolled, stormwater discharges can result in fish kills, the destruction of spawning and wildlife habitats, a loss in aesthetic value, and contamination of drinking water supplies and recreational waterways that can threaten public health.

Montana MS4s

- The following MS4s are currently regulated in Montana as federal automatic MS4s:
 - The City of Billings and Yellowstone County;
 - The City of Missoula and Missoula County; and
 - The City of Great Falls and Cascade County
- The following MS4s are currently regulated in Montana as discretionary MS4s:
 - The City of Bozeman;
 - The City of Butte;
 - The City of Helena; and
 - The City of Kalispell

2020 Census and Federal Terminology Updates

- Following the 2020 Decennial Census, the U.S. Census Bureau eliminated the term urbanized area, which had previously been used in MS4 permitting and regulatory contexts.
- EPA subsequently revised the federal Phase II stormwater regulations in 2023 to remove urbanized area and replace it with population-based census language.
- This rulemaking updates three of Montana's MS4 administrative rules to reflect the federal terminology change and the designation outcomes resulting from the 2020 Census.

ARM 17.30.201 Permit Application and Annual Permit Fees

- Updates MS4 fee language to replace the term “urbanized area” with population-based census terminology.
- Fee schedules, fee amounts, and fee applicability remain unchanged.
- Amendment aligns fee provisions with current federal terminology and census-based classifications.

ARM 17.30.1102 Definitions

- Updates MS4 definition language to replace the term “urbanized area” with population-based census terminology.
- Updates automatic and discretionary MS4 designations based on 2020 Decennial Census results.

Updated Montana MS4s Following 2020 Census

- Federal automatic MS4s:
 - The City of Billings and Yellowstone County;
 - The City of Bozeman and Gallatin County;
 - The City of Great Falls and Cascade County;
 - The City of Helena, The City of East Helena, and Lewis & Clark County; and
 - The City of Missoula and Missoula County
- Discretionary MS4s:
 - The City of Belgrade
 - The City of Butte;
 - The City of Kalispell

ARM 17.30.1107 Designation Procedures for Small MS4s

- Updates MS4 designation procedure language to replace the term “urbanized area” with population-based census terminology.
- Applies terminology updates throughout designation and waiver provisions.
- Does not change MS4 designation criteria, thresholds, or department authority.

Small Business Impact

- Proposed amendments do not significantly or directly affect small businesses.
- MS4s subject to these rules are owned or operated by municipal and other public entities operating storm sewer systems.
- The amendments are technical and clarifying in nature and do not create new permit obligations, standards, or fees for private entities.

Summary

- The proposed rulemaking updates MS4 rules to reflect current federal Phase II terminology, incorporate 2020 Decennial Census results, and clarify MS4 applicability and designation under state rule.
- The amendments maintain existing regulatory structure and standards while ensuring state rules accurately reflect current federal requirements and census-based designation outcomes.

Questions?

*Feel free to contact me with any questions by emailing
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