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# MS4/Clean Water Act: U.S. Environmental Protection Agency Interim Guidance on Census Bureau's Elimination of "Urbanized Area" Definition

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The United States Environmental Protection Agency ("EPA") issued a document styled:

*Interim Guidance on Census Elimination of "Urbanized Area" Definition ("Guidance")*

The *Guidance* addresses the effect of the United States Census Bureau's revisions to the criteria for defining urban areas related to the EPA's Clean Water Act Municipal Separate Storm Sewer System ("MS4") Stormwater Management Permitting Program.

An MS4 refers to a collection of structures designed to gather stormwater and discharge it into local streams and rivers. The word "municipal" refers to a unit of local government or organization responsible for the administration of a developed area. The separate storm sewer system can include retention basins, ditches, roadside inlets, and underground pipes, designed to gather stormwater for built-up areas discharging it. The terms "separate system" is used because it is not connected to the sanitary sewer system.

EPA estimates there are approximately 7,250 Clean Water Act permitted MS4s (including large and small MS4s) that are operating in the United States. They are authorized pursuant to a National Pollutant Discharge Elimination System ("NPDES") MS4 permit.

Permittees are required to develop and implement a stormwater management program which will include:

- Pollution prevention measures
- Treatment and removal techniques
- Monitoring
- Use of legal authority
- Other measures to control the quality of stormwater discharged to the drains and waters of the United States

EPA utilizes the following phrase in its Phase II MS4 regulations:

. . . urbanized area[s] as determined by the latest Decennial Census. . .

As a result, the EPA *Guidance* states that:

. . . questions have arisen about what effects the Census Bureau's new change has on which systems are considered regulated small MS4s moving forward.

While EPA evaluates whether revisions to the Phase II stormwater regulations are required because of this change, it issued the *Guidance*. The questions the *Guidance* addresses include:

- Will currently regulated small MS4s brought into the program during a previous decennial census continue to be regulated in light of the change in Census Bureau criteria?
- What actions should permitting authorities take with respect to new or expanded small MS4s based on the 2020 Census?
- What actions should permitting authorities take with respect to currently regulated small MS4s?

A copy of the *Guidance* which responds to these questions can be downloaded [here](#).