



The 2020 Decennial Census and the Texas Phase II Municipal Separate Storm Sewer System (MS4) Program

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October 19, 2023

The U.S. Census Bureau and Phase II Stormwater Regulations

How are they related?

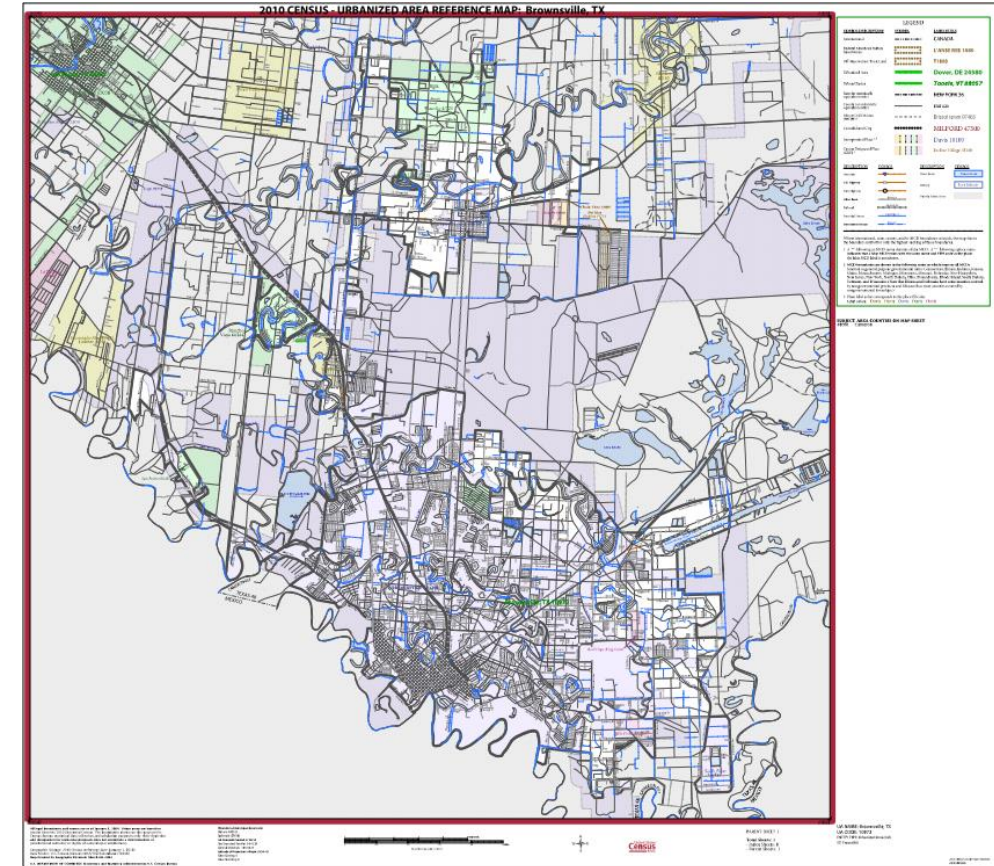
To be a regulated Municipal Separate Storm Sewer System (MS4) under TCEQ's current 2019 Phase II Small MS4 General Permit (TXR040000) you must:

1. **Operate an MS4** which is:
 - a. Publicly Owned or Operated;
 - b. Designed or used for collecting or conveying stormwater;
 - c. Not a combined sewer; and
 - d. Not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2
2. **Be fully or partially located within an *urbanized area (UA)*, as determined in the 2000 or 2010 Decennial Censuses by the U.S. Census Bureau**



Terminology in the 2000 & 2010 Decennial Censuses

- Although the full urban area definition is complex, the Census Bureau's general definition of an urban area is based on **population** and **population density**.
- The Census Bureau delineated these densely populated urban areas into two categories:
 - “**Urbanized Areas (UAs)**” of 50,000 or more people;
 - “**Urban Clusters (UCs)**” of at least 2,500 and less than 50,000 people.



U.S. Census (2010). 2010 Census – Urbanized Area Reference Map: Brownsville, TX.
https://www2.census.gov/geo/maps/dc10map/UAUC_Ref_Map/ua/ua10972_brownsville_tx/DC10UA10972.pdf

Terminology Changes in the 2020 Decennial Census

As of March 24, 2022, the Census Bureau stopped distinguishing urbanized areas and urban clusters and **only identified urban areas**.

In response, EPA published a final rule on June 12, 2023, which replaced the term “urbanized area” in Federal Phase II MS4 regulations with “**urban areas with a population of at least 50,000**”

- This change requires permitting authorities to use 2020 Census and future census data consistent with existing longstanding regulatory practice.

The Census Bureau will no longer publish PDF maps of each area like in the past. Instead, they have published the following resources:

- **Shape files of the urban areas** across the nation for mapping purposes
 - <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>
- **Interactive web map with the 2020 urban areas** - TIGERweb
 - <https://tigerweb.geo.census.gov/tigerweb/>



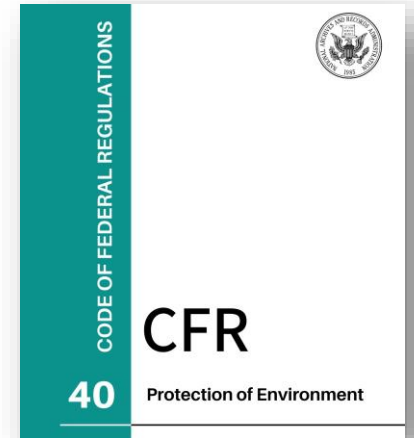
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Terminology Changes in the Federal Phase II MS4 Rules

As of July 12, 2023, the Federal Phase II MS4 Regulations are revised to remove references to “urbanized areas” and instead include the “urban area with a population of 50,000 or more people” phrasing

Below is an example of how part of the federal rule language was revised:

- § 122.28 General permits (applicable to State NPDES programs, see [§ 123.25](#)).
 - (a) **Coverage.** The Director may issue a general permit in accordance with the following:
 - (1) **Area.** The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under [paragraph \(a\)\(2\)\(ii\)](#) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:
 - (i) Designated planning areas under sections 208 and 303 of CWA;
 - (ii) Sewer districts or sewer authorities;
 - (iii) City, county, or State political boundaries;
 - (iv) State highway systems;
 - (v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;
 - (vi) **Urbanized areas as designated by the Urban areas with a population of 50,000 or more people as determined by the latest Decennial Census by the Bureau of the Census according to criteria in 30 FR 15202 (May 1, 1974); or**
 - (vii) Any other appropriate division or combination of boundaries



Implications for the 2024 Renewal of the TXR040000 General Permit

Urban areas with a population of at least 50,000 – New term, same intent

From 2007-2019, the criteria for being regulated under the general permit was:

1. Operate a small MS4
2. Be fully or partially located within a UA, as determined by the 2000 or 2010 Decennial Censuses

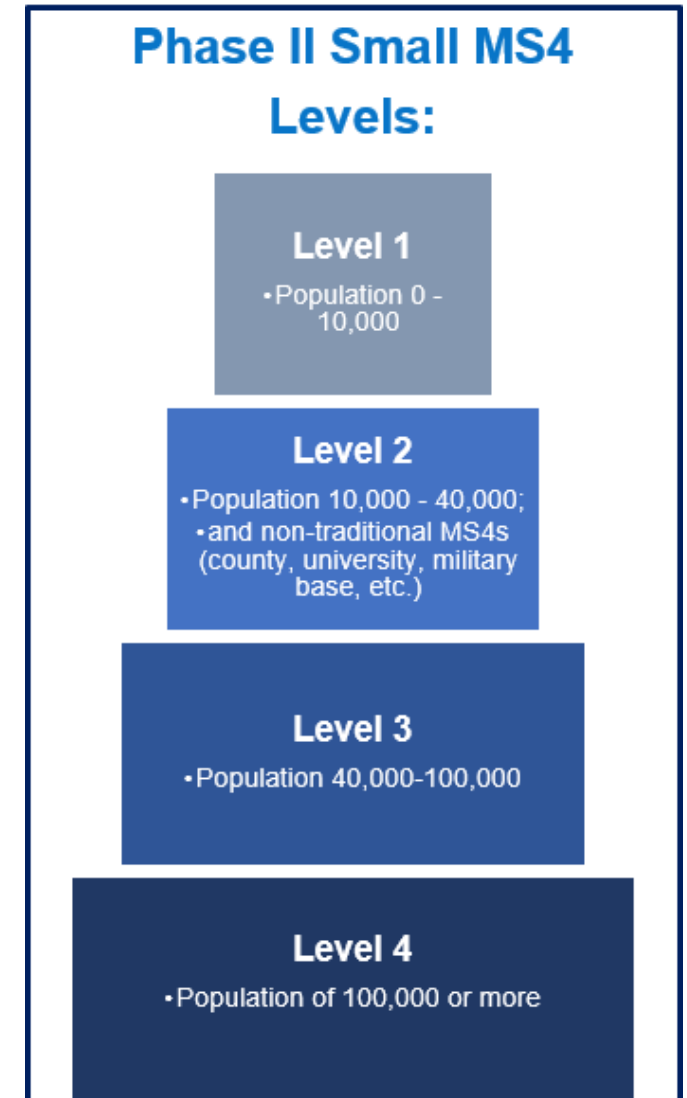


The 2024 proposed general permit has been updated. The criteria is now:

1. Operate a small MS4
2. Be fully or partially located within an urban area with a population of at least 50,000 people as determined by the 2000, 2010, or 2020 Decennial Censuses

2020 Decennial Census and the Regulated MS4 Universe

- As the urban areas with a population of 50,000 or more develop and expand, **the amount of small MS4s regulated by TCEQ and subject to the requirements of the general permit will grow** as well
 - Estimated to regulate upwards of 200 new entities
- TCEQ is currently identifying newly regulated small MS4 operators
 - Will send notification letters to each identified operator
- The Census changes **will not de-regulate any existing small MS4 operators**
 - Once regulated, Always regulated
- The proposed permit was also revised to clarify that the small **MS4 level criteria is based on 2020 Decennial Census data**

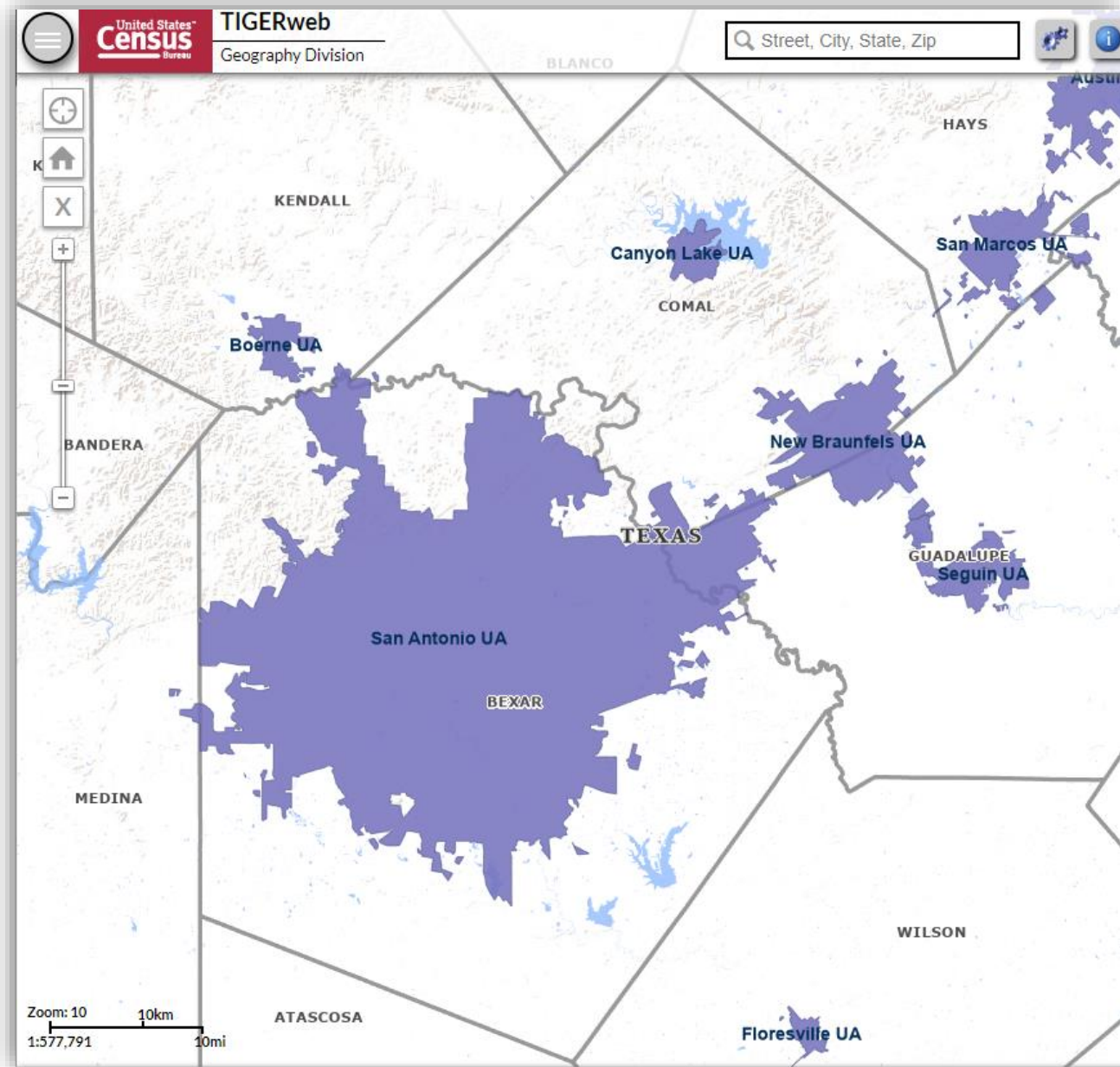


2020 Decennial Census

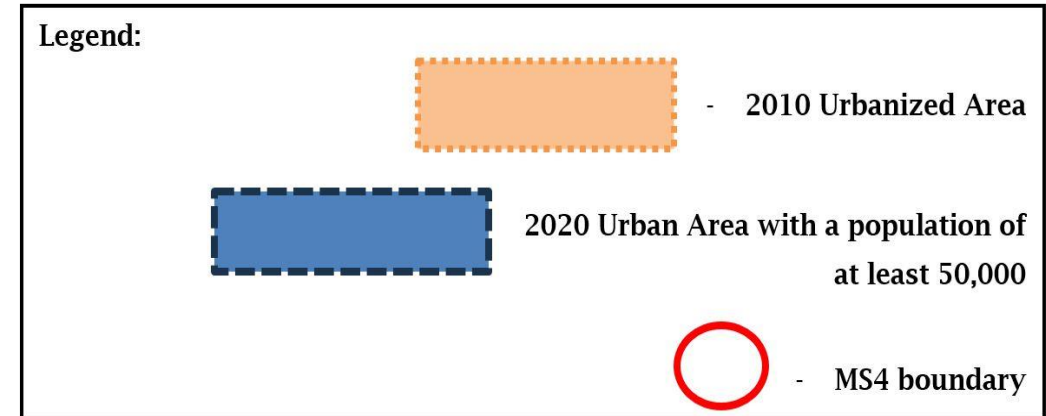
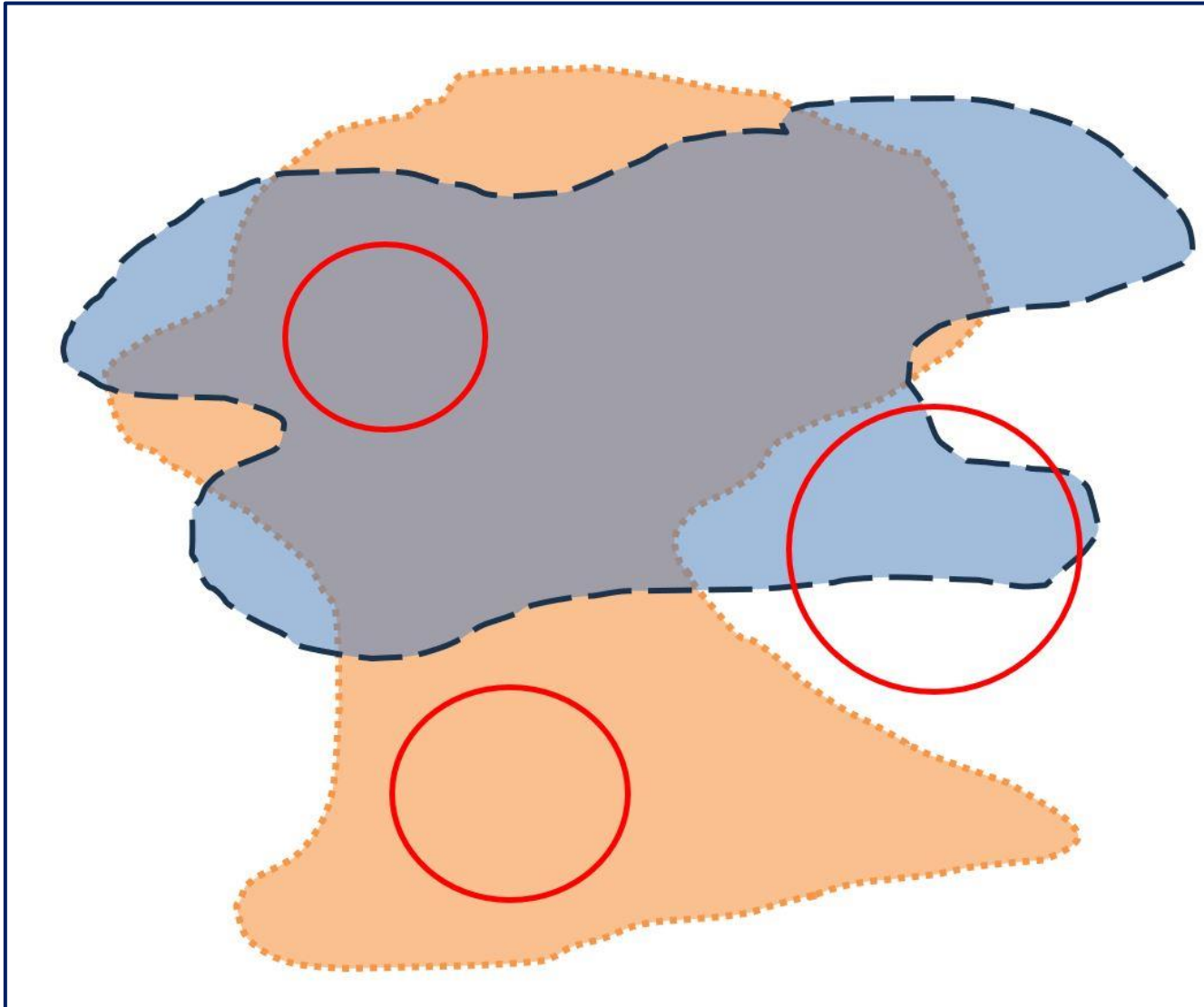
Example using U.S. Census Bureau Resources

Urban Area Name	Urban Area Population
San Antonio	1,992,689
New Braunfels	100,736
Boerne	18,320
San Marcos	70,801
Floresville	6,313

- “Urban Area with a population of 50,000 or more people”
 - Refers to **the population of the urban area**
 - Does not refer to the individual municipalities within the urban area



Simplified Urban Area Illustration:



Example 1: Population Growth & Expansion of Urban Area

- **Q:** The City of Smalltown, TX has been regulated under this general permit since 2007.
- The urban area has grown considerably from the 2010 to 2020 Census and now the whole city is located within an “urban area with a population of at least 50,000”.
- The population of the city itself has increased from 32,000 to 41,000 residents.
- What must be done?



- **A:** Where the urban area has expanded to include additional areas of the city, an MS4 operator will now need to:
 - include these areas in their Stormwater Management Program and
 - implement their program throughout this new area.
- Due to the increase in the city’s population, it is now regulated as a Level 3 MS4 and has some additional permit requirements.

Example 2: Population Loss & Urban Area Shrinking

- **Q:** Due to some unforeseen circumstance the City of Happy, TX experienced a major population loss.
- It is no longer located in an “urban area with a population of at least 50,000” under the 2020 Census.
- Do they still need permit coverage?



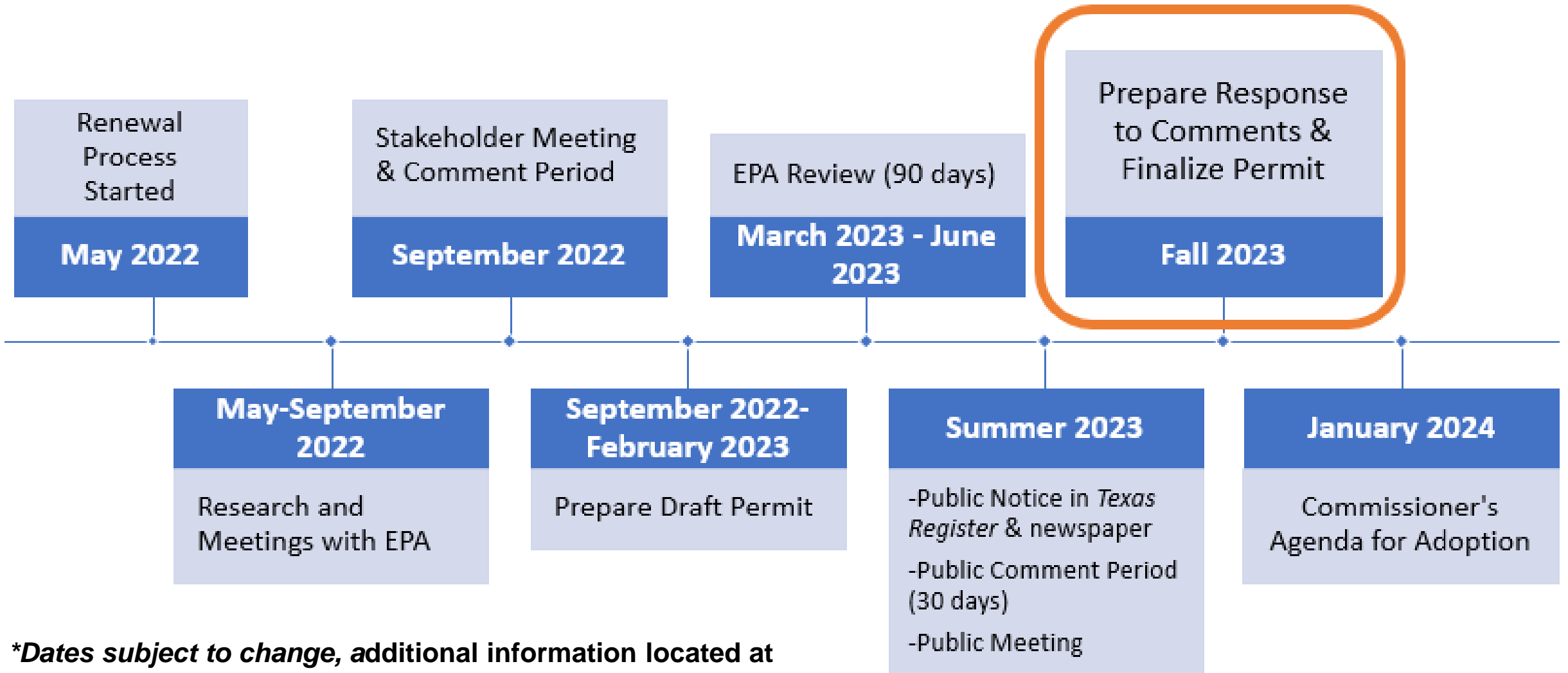
- **A:** Yes, under the federal Phase II MS4 rules, once an operator is regulated, it will always be required to maintain coverage.
- Regulated area will be based on previous Decennial Censuses.
- Changes in the population based on the 2020 Census may change the applicable MS4 level under the general permit.

Resources



- Shape files of the urban areas across the nation for mapping purposes
 - <https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html>
- Interactive web map with the 2020 urban areas - TIGERweb
 - <https://tigerweb.geo.census.gov/tigerweb/>
- Final *NPDES Small MS4 Urbanized Area Clarification Rule*
 - <https://www.govinfo.gov/content/pkg/FR-2023-06-12/pdf/2023-12494.pdf>
- 2020 Census and Urban Areas, new TCEQ webpage:
 - <https://www.tceq.texas.gov/permitting/stormwater/ms4/urbanareas>
- Urban Area Factsheet prepared by EPA
 - <https://www.epa.gov/system/files/documents/2023-09/EPA-Stormwater-Phase-II-Final-Rule-Factsheet-2.2-Urban-Area.pdf>

TXR040000 Renewal Timeline



***Dates subject to change, additional information located at <https://www.tceq.texas.gov/permitting/stormwater/ms4>**

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Questions?

Thank you for coming to the 2023 Water Quality/Stormwater Seminar!