

“Urban Regulated” vs. “Urban Non-Regulated” Land

The “NPDES regulated stormwater” areas within a county are defined as the urban areas draining to a stormwater collection system owned and operated by a county under the federal NPDES Phase I or Phase II MS4 permit program. These areas are sometimes referred to as “urban regulated.” Our delineation of these areas is based on the intensity of development within the designated urban land use areas. In terms of the GIS delineation of these areas, we primarily used a combination of the "core" urban areas from the Phase 5.3.2 land cover and the "urbanized areas" from the U.S. Census data to distinguish between NPDES regulated and non-regulated.

Very low-density residential and rural residential urban land areas generally lie beyond the reach of a county’s storm sewer system and are thus considered as “non-NPDES regulated stormwater” areas (sometimes called “urban non-regulated”). This is an important distinction, because areas under NPDES MS4 permits are subject to assignment of a wasteload allocation (WLA) as a point source in TMDLs, whereas non-NPDES regulated areas are typically included as part of a TMDL’s load allocation. It is important to note, however, that these non-NPDES regulated urban areas have been subject to State Stormwater Management regulations since 1984, and all new development is required to comply with Maryland’s Stormwater Management Act of 2007. Any BMPs implemented in these areas will be applied toward the load allocation.

The distinction between “NPDES regulated” areas and “non-NPDES regulated” areas can also be applied to municipalities that are under NPDES Phase II MS4 permits, though these tend to be high-intensity developed areas with a high percentage of total acres drained by the jurisdiction’s storm sewer system, and thus subject to inclusion in a NPDES regulated urban stormwater allocation. Where such Phase II MS4 municipalities lie within a Phase I or Phase II MS4 county, each permitted jurisdiction has separate stormwater management requirements under their respective permits.

This is also true of a number of other entities covered under the general NPDES Phase II MS4 permit, including certain State and federal facilities, industrial and commercial facilities, institutions, mining operations, etc. All of these Phase II MS4 entities have similar permit requirements with regard to stormwater management. Where they lie within an MS4 county or municipality, the acreage associated with these entities must be considered when determining the relevant jurisdiction’s actual area for which it is responsible in terms of implementing pollution reduction controls through stormwater best management practices.