



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

L. Scott Baird
Executive Director

DIVISION OF WATER QUALITY
Erica Brown Gaddis, PhD
Director

VIA EMAIL
READ RECEIPT REQUESTED

May 19, 2020

Amy Clark
EPA Region VIII (8P-W-WW)
1595 Wynkoop Street
Denver, CO 80202-1129

Subject: **Public Notice of Modifications to Utah's Common Plan Permit (CPP) For Construction Activity Connected with Single Lot Housing Projects (UTRH00000)**

Dear Ms. Clark:

Enclosed please find a draft copy of Utah's Common Plan Permit (CPP) for Construction Activity Connected with Single Lot Housing Projects (UTRH00000). The Public Notice is also attached for your information. These documents are also being made available on-line at <https://deq.utah.gov/division-water-quality> during the 30-day public notice period.

Modifications are being made to update links and processes that have changed as a result of migrating to the NeT database for storm water permits, adding requirements to maintain Authorization to Discharge Letters onsite, fixing typos, and addressing incorrect, confusing, or missing statements.

If you have any questions with regards to this matter, please contact Ryan Curtin, at (801) 536-4368, or rscurtin@utah.gov.

Sincerely,


Jeanne Riley (May 18, 2020)

Jeanne Riley, Manager
Storm Water Section

JR:cjh

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Amy Clark

EPA Region VIII (8P-W-WW)

Enclosures: Public Notice
Permit
Permit - Appendix I
Fact Sheet Statement of Basis

cc: Chris Cline, US Fish and Wildlife Service
Jason Gipson, Chief, Utah Regulatory Office, U.S. Corps Of Engineers
Richard Worley, Bear River Health Department
Eric Larsen, Central Utah Public Health Department
John Cartier, DEQ District Engineer
Paul Wright, DEQ District Engineer
Nathan Hall, DEQ District Engineer
Scott Hacking, DEQ District Engineer
Orion Rogers, Southeastern Health Department
Jeremy Roberts, Southwest Utah Public Health Department
Taylor Francis, Salt Lake Valley Health Department
Rachelle Blackham, Davis County Health Department
Summer Day, Weber-Morgan District Health Department
Dwight Hill, Wasatch County Health Department
Jason Garrett, Utah County Health Department
Cindy Austreng, Tri-County Public Health Department
Nathan Brooks, Summit County Public Health Department
Bryan Slade, Tooele County Health Department

DWQ-2020-010987



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May 20, 2020

DIVISION OF WATER QUALITY UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY PUBLIC NOTICE TO ISSUANCE OF A GENERAL CONSTRUCTION STORM WATER PERMIT

PURPOSE OF PUBLIC NOTICE

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENT ON THE STATE OF UTAH'S INTENTION TO ISSUE A GENERAL STORM WATER PERMIT UNDER AUTHORITY OF THE UTAH WATER QUALITY ACT, SECTION 19-5-104(1)(I) AND 107 (2), UTAH CODE ANNOTATED 1953, AS AMENDED. SAID "PERMIT" REFERS TO UPDES PERMIT AND THE STATEMENT OF BASIS, INCLUDING THE TOTAL MAXIMUM DAILY LOADS (TMDLs) IF APPLICABLE, AS PER SECTION 303 (d) OF THE FEDERAL CLEAN WATER ACT (CWA).

PERMIT INFORMATION

NAME: STATEWIDE GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH SINGLE LOT HOUSING PROJECTS UPDES PERMIT NO: UTRH00000

BACKGROUND

The General Storm Water Permit for "Construction Activity Connected with Single Lot Housing Projects" is a permit for small residential housing projects. It is also referred to as the "Common Plan Permit" because of its applicability to single lot sites within a Common Plan of Development or sale. This permit is presented for small builders and owner-builders and is applicable for residential construction that does not disturb over an acre of surface area. Although there has historically been a general permit for construction activity since the inception of the UPDES Storm Water Program, this general permit was created to simplify the regulatory process and provide another permit option for smaller projects. It does include the federal requirements that by law must be included in the permit from 40 CFR Part 450 (Construction and Development Point Source Category) as appropriate. It has been reformatted in this revision to include requirements for Authorization to Discharge Letters. Major changes are outlined in the fact sheet statement of basis.

PUBLIC COMMENTS

The permit is available for public review under www.waterquality.utah.gov/. Written public comments can be submitted to: Ryan Curtin, P.O. Box 144870, Salt Lake City, Utah 84114-4870 or by email at: rscurtin@utah.gov. The deadline to receive comments is by close of business on June 19, 2020. A public hearing may be held if written requests are received that demonstrate significant public interest and substantive issues exist to warrant holding a hearing. After considering public comment the Division of Utah Water Quality may execute the permit or revise it.

DWQ-2020-010983

General Permit for Storm Water Discharges from Construction Activities

STATE OF UTAH, DEPARTMENT OF ENVIRONMENTAL QUALITY,
DIVISION OF WATER QUALITY

General Storm Water Permit for Construction Activity
Connected with Single Lot Housing Projects
Utah Pollution Discharge Elimination System Permit No. UTRH00000
(Common Plan Permit)

This Permit is issued in compliance with the provisions of the Utah Water Quality Act (Utah Code Annotated 19-5, as amended) the federal Water Pollution Control Act (33 United States 1251 et. seq., as amended by the Water Quality Act of 1987, Public Law 100-4), and the rules and Regulations made pursuant to those statutes.

This permit applies to “construction activity” for a single lot disturbing a total of one acre or less and for construction activities related to residential dwellings. A single lot covered by this permit is part of a common plan of development or sale (see definitions in Part 6).

Issuance of this permit does not authorize any permittee to violate water quality standards. The permittee shall develop best management practices (BMPs) and engage in activities that will protect water quality during the construction project.

This permit shall become effective on Month, Day, 2020.

This permit and the authorization to discharge expire at midnight on January 31, 2021.

Signed this [] day of , 2020

Erica Brown Gaddis, PhD.
Director

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General Storm Water Permit for Construction Activity Connected with Single Lot Housing Projects
UPDES Permit No. UTRH00000

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1. **COVERAGE UNDER THIS PERMIT.** Conditions for coverage under this permit.
 - 1.1. Coverage Limitations. A project site (see definition of a project site in Part 6) is eligible for this permit if it meets the following requirements:
 - 1.1.1. It is found within the State of Utah but is not in Indian Country,
 - 1.1.2. The construction activity is related to residential building on an individual lot or parcel.
 - 1.1.3. It disturbs a total of one acre or less over the duration of the construction project,
 - 1.1.4. *Multiple site coverage:*
 - 1.1.4.a. This permit may apply to multiple lots with the contingency that each lot be covered under a different permit tracking number (separate permit coverage for each lot). Lots do not necessarily need to be located within the same sub-division.
 - 1.1.4.b. If multiple lot coverage is desired under one permit, it may be obtained under the General Permit for Discharges from UPDES Permit No. UTRC00000. Multiple lots may be covered under one tracking number (one permit coverage) provided that UTRC00000 is the controlling permit, and all lots covered under that tracking number are within the same sub-division.
 - 1.2. Discharges Allowed. This permit allows discharges of storm water from construction activity at a project site, provided the storm water discharge meets the requirements within this permit.
 - 1.3. Non-Storm Water Discharges. Other non-storm water discharges that are allowed are:
 - 1.3.1. Flushings from potable or irrigation water sources where they have not been used for a washing or cleaning activity;
 - 1.3.2. Water used for dust control;
 - 1.3.3. Spring water and groundwater that have not been soiled with sediment or other pollutants from construction activity;
 - 1.3.4. Emergency fire-fighting activities, and;
 - 1.3.5. Footing drains that have not been soiled from construction activity.
 - 1.4. How to Obtain Permit Coverage. The permit may be obtained online at the Utah Department of Environmental Quality (DEQ) UPDES Permits website at <https://cdx.epa.gov>. Click on "Application for a Storm Water Permit". Create an account, or if an account has already been created, proceed with providing the information requested. **The notice of intent (NOI) for this permit is the same NOI that is used for the UTRC00000 permit.** To complete the application process the permittee must pay a permit fee. The NOI may be filled out electronically using the online permit application system. The NOI can also be submitted using a paper form obtained from the same website cited above along with the permit fee. The paper form and fee can either be hand delivered to Utah Division of Water Quality [DWQ], 195 North 1950 West, Salt Lake City, Utah, 3rd floor in the MASOB building, or mailed to DWQ, P.O. Box 144870, Salt Lake City, Utah 84114-4870. When a party receives coverage under the permit, they will receive a permit tracking number, and the opportunity to download a copy the NOI and Authorization to

Discharge Letter for “proof of coverage.” A copy of this permit may be downloaded from the [Online](#) Permits Database.

- 1.5. Signature on the NOI. The owner and the general contractor, which in some cases could be the same party, must sign the paper copy of the NOI (see 5.16.1.a) and place it in the storm water pollution prevention plan (SWPPP) along with the Authorization to Discharge Letter. (see 4.2.8).
- 1.6. Permit Renewal. This permit must be renewed yearly on the anniversary date of the original permit application. This is done by logging onto the account created at the time of NOI application, refreshing the information on the NOI, and paying the yearly permit fee.
- 1.7. Start and end of Permit Coverage. Permit coverage begins immediately upon completion and submission of an NOI and the permit fee. If the NOI is submitted electronically on-line permit coverage begins on that day, upon the receipt of the Authorization to Discharge Letter. If the NOI is submitted by mail permit coverage begins when the NOI is received and entered into the on-line data base by DWQ staff, and an Authorization to Discharge Letter is generated with coverage dates, for the permittee. For projects within the jurisdiction of a regulated MS4 (see definitions in Part 6; the list of regulated MS4’s is found on <https://deq.utah.gov/water-quality/municipal-separate-storm-sewer-system-ms4s-permits-updes-permits>), the permittee must also notify and receive approval for the project from the regulated MS4 having jurisdiction before the project may commence (see 4.2.10.). The permit fee is an annual fee that must be paid yearly on the anniversary date of permit issuance. The permit will remain effective until or unless any of the following occurs:
 - 1.7.1. The permittee completes the notice of termination (NOT) process, as outlined in section 1.8,
 - 1.7.2. The permittee fails to submit the yearly permit fee,
 - 1.7.3. Aside from permit coverage, which may be renewed annually by the permittee, as needed, this general permit expires every 5 years and normally is renewed through a public notice process by DWQ. In the event that the permit nears the end of its 5 year cycle, and the year of permit coverage for a construction site extends beyond the expiration date for the permit, the permittee must request continuing coverage through the permit renewal process. Otherwise permit coverage for a construction site will terminate when the general permit expires. Renewal of permit coverage can be done in the online electronic storm water data base up to 12 months prior to the expiration of the permit, or by letter received by DWQ before the expiration date of the specific permit coverage in question where concurrently all entries in the NOI can be updated as needed.
 - 1.7.3.a. If a renewal permit has been issued and is in place at the expiration date of this permit, this permit will terminate and coverage under the renewed permit will begin on the expiration date unless 1.7.1 has been invoked by the permittee.
 - 1.7.3.b. If a renewal permit has not been issued, this permit will be administratively extended until a renewal permit is issued or it is determined that this permit

will not be continued. If a renewal permit is issued, and the permittee indicated a desire for continuing coverage under the new permit, coverage will continue for the permittee under the new permit coverage unless 1.7.1 is invoked. If the permit is discontinued, the permittee must continue coverage under another general permit or an individual permit.

- 1.7.4. Coverage under this permit is rescinded or revoked for administrative reasons. In this case, the permittee will be notified in writing from the Director and will be required to apply for coverage under a different general or individual UPDES permit. This permit is terminated on the day coverage under another permit begins.
- 1.8. Notice of Termination. The permittee must terminate the permit by submitting an NOT when the project is completed. The NOT must be filed and retained for 3 years after the permit has been terminated (see 3.7). To terminate the permit, the permittee must comply with either 1.8.1 or 1.8.2, outlined below, and must comply with 1.8.3 if the project is within the jurisdiction of a regulated MS4 (see <http://www.deq.utah.gov/Permits/water/updes/stormwatermun.htm> for regulated MS4s):
 - 1.8.1. The landscaping is completed and the site meets “final stabilization” requirements (see part 6, definitions, for final stabilization).
 - 1.8.2. When a project (residential building) is completed but ‘final stabilization’ is not established, the building must be in process of being sold and ready for homeowners to take possession. If built by the homeowners, they must be in the process of moving in or already have moved in the house. The lot must have perimeter controls on downslope boundaries and surface stabilization controls on all surfaces that are 20 % (1 to 5 slope, or 11.3 degrees) or greater to prevent erosion and soil migration offsite;
 - 1.8.3. The permittee must submit a paper copy of a NOT form to the MS4 of jurisdiction and schedule a final inspection (with the MS4). Termination is complete upon approval of the final inspection from the local MS4, or from DWQ if outside the jurisdiction of a regulated MS4.
- 1.9. Water Quality: Through the design of appropriate BMPs, it is expected that the permittee will achieve compliance with water-quality standards. If additional information becomes available indicating a project site is causing or is contributing to a violation of water quality standards or an existing total maximum daily load (TMDL), coverage under this permit may be revoked or rescinded, and the permittee may be required to get coverage under an individual UPDES permit or another UPDES general permit. If this occurs, the owner and the general contractor will be notified in writing by the Director and given instructions on how they must proceed.
- 1.10. Requirement to Post a Notice of Permit Coverage. The permittee must post a sign at the project site that includes the UPDES Permit tracking number, owner or general contractor contact name, a phone number for the owner or general contractor, an email address for the owner or general contractor, and in the case of an electronic SWPPP, a web address or information on how to access the electronic SWPPP. The notice must be posted with lettering large enough to be readable from a public right-of-way.

2. POLLUTION PREVENTION REQUIREMENTS

2.1. Structural Controls. Minimize sediment transport off the site as follows:

- 2.1.1. *Stockpiled Material*. Stockpiled material must not be stored on an impervious surface, except a material that will not be transported with precipitation, such as two-inch graded and washed gravel, unless it will be permanently placed and the holding area will be swept clean the same day it is dropped. If stored temporarily for more than a day, it must be placed as far as feasibly possible from roads or other impervious surfaces, storm water inlets, or water bodies, and with stockpile perimeter runoff controls utilized.
- 2.1.2. *Perimeter Controls*. Perimeter controls such as silt fences, straw wattles, other filter berms, cut back curbs, vegetative buffers, etc., must be properly placed on the downslope sides of the project to prevent sediment from leaving the site during a storm event. As perimeter controls become loaded to 1/3 of capacity, they must be cleaned.
- 2.1.3. *Inlet Protection*. Storm-drain inlets on the project site and on adjacent roads immediately down gradient from the site must be protected if they receive drainage from the active construction site. Protection may be, but is not limited to, rock wattles, sand bags, proprietary devices, or other. Rock wattles and sand bags are not advised for use in winter because they can be destroyed or removed by snow plows.

2.2. Protection of Critical or Sensitive Areas: Critical or sensitive areas such as preservation of the drip line around trees, wetlands, buffer zones by water bodies, etc., must be separated and isolated by clearly marking the areas with environmental fencing.

2.3. Managing the Site to Minimize Sediment Transport Offsite.

- 2.3.1. The total area of soil disturbance at any one time must be minimized by disturbing only the area necessary to complete that stage of construction in the construction process.
- 2.3.2. Soil disturbances on steep slopes must be minimized. For purposes of this permit a steep slope is 70% (or 1 to 1.66, or 35 degrees), or greater. This means avoiding a disturbance of soils on steep slopes or if disturbing the soil surface is necessary providing a robust surface stabilizing cover (such as geomats, environmental blankets, or other robust slope stabilizing control) to prevent erosion.
- 2.3.3. Storm water volume and velocity must be controlled to minimize soil erosion and sediment transport by methods such as allowing or not obstructing infiltration and using velocity-control devices to reduce energy in runoff flowing on slopes.

- 2.3.4. Storm water discharges leaving the site, including both peak flowrates and total storm water volume, must be controlled to minimize channel and stream-bank erosion and scour in the immediate vicinity of discharge points. This may be accomplished using experience, estimates, and good judgment; unless unusual or extraordinary site conditions present a potential for excessive erosion, hillside/impoundment collapse, environmental/safety hazards, or other site problems; for which a professional engineer must be consulted.

PND Draft

- 2.3.5. *Thirty-Foot Vegetative Buffer.* If a waterbody is adjacent to, within 30 feet from, or passing through the project boundaries, a 30-foot natural buffer between the waterbody and construction activity must be provided. If a 30-foot natural buffer cannot be provided, a substitute control measure equivalent to the 30-foot buffer must be provided, or the SWPPP must contain an explanation why neither is feasible. If it is not feasible to maintain a 30-foot natural buffer, as much natural buffer as is possible must be preserved and coupled with placement of additional erosion and sediment controls designed, implemented, and maintained to substitute and be equivalent to the 30-foot natural buffer.

The requirement for a natural buffer or substitute controls does not apply to any area outside of the project boundaries, but if a waterbody is within, for example, 20 feet from the project boundary, there must be 10 feet of natural vegetative buffer or substitute controls, or if within 25 feet from the project boundary, there must be 5 feet of natural vegetative buffer or substitute controls, and so forth.

- 2.3.5.a. Substitution for a natural buffer should be calculated with models such as USDA's RUSLE2 or WEPP, or by using SEDCAD, SEDIMOT, or other similar models. In lieu of using a model for calculation of a substitution buffer, the permittee shall deploy the following:

2.3.5.a.i. For every full 9 feet of natural buffer that is not provided on slopes up to 10 percent, one row of an effective perimeter control, such as a silt fence, staked straw wattle, proprietary or other filter berm, or other perimeter control, must be properly placed. For example, if only 15 feet of natural buffer can be provided, the permittee will substitute one row of a perimeter control in addition to the 15 feet of natural buffer to make up for the 15 feet of buffer that could not be preserved.

2.3.5.a.ii. In addition to the requirements above for substitutions in place of the 30-foot natural buffer, on slopes between 10 percent and 30 percent, five feet of surface stabilization must be placed down gradient of and between each perimeter control substituted. For slopes steeper than 30 percent, 6 feet of surface stabilization must be placed downgradient of and between each perimeter control substituted, such as mulch, hydromulch, wood chips, bark, compost, erosion mat, etc., but excluding tackifiers.

- 2.4. Good Housekeeping Measures. The permittee must address the following:

- 2.4.1. *Track Out.* Track-out pads (see definitions) and or rumble strips (see definitions) must be used to prevent dirt/mud tracked on streets as vehicles leave the site.

- 2.4.2. If traffic onto and off the site is not frequent, a site operator may impose a blanket prohibition of vehicle traffic onto the site, allowing for the occasions to deliver and unload, but afterwards providing sweeping and/or cleaning of tracked out dirt (keep in mind that vehicles leaving a muddy site with no track out protection can track mud for several blocks – the operator is liable for all track out from the site except for a dirt stain after sweeping -- see note after 3.2.2.). Dirt or mud tracked out on the street must not be washed or hosed into a storm drain. Tracked out mud or dirt on the street must be swept and/or scraped up as needed every day (see 3.2.2).
- 2.4.3. *Curb Ramps*: This permit prohibits the intentional placement of dirt and/or mud on paved streets or sidewalks. Curb ramps may be crushed rock, wood or steel ramps, or another material that does not wash away with storm water.
- 2.4.4. *Waste and Debris*. The site must be cleaned of waste and debris daily (see daily self-inspection 3.2.2). Waste and debris must be contained and secured adequately to prevent scattering from wind until it is removed from the site and disposed of properly.
- 2.4.5. *Portable Toilet*. Portable toilets must be tied down, staked down, or secured using other measures to prevent turn over, and they must be placed away from a road gutter, storm water inlet, or waterbody.
- 2.4.6. *Washing of Concrete, Stucco, and Paint Equipment*. A plastic film-lined pit or sealed container must be provided for washout of equipment used for concrete, stucco, and water-based paint. After completion of concrete, stucco, and paint tasks, the permittee must dispose of the waste by drying and sending solids to a landfill. Oil-based paint cleanout must be done in containers, taken off-site, and disposed of separately.
- 2.5. Soil Compaction/Top Soil. Topsoil must be preserved and placed on areas to be landscaped or areas planned for receiving vegetative cover, unless infeasible. Soil compaction must be minimized on areas that will not be used for support of structural elements such as roads, parking areas, structures, etc., unless infeasible.
- 2.6. Stabilization Requirement. Stabilization requirements are as follows:
- 2.6.1. *Stabilization requirements for areas that receive 20 inches of rainfall annually or greater*: Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site or have temporarily ceased on any portion of the site for greater than 14 calendar days. Stabilization can be sodding, planting, application of mulch (wood chips, rock, gravel, bark, compost, cat tracking on straw, hydromulch, etc.), application of geotextiles or erosion blankets, application of a tackifier, seeding (including preparation for germination and growth), a combination of these methods, or other method.
- 2.6.2. *Stabilization or equivalent requirements for arid and semi-arid areas (areas receiving less than 20 inches of rainfall annually)*: Stabilization for visually flat areas is not required (roughly up to 5 percent, 1 to 20 slope, or 2.3 degrees slope).

2.6.3. Areas with slopes up to roughly 20 percent (1 to 5 slope or 11.3 degrees) must have, at minimum, velocity-control devices in every area where storm water collects and flows, spaced close enough across the flow to stop erosion (see also 2.3.3). Soil surface stabilization such as sodding, planting, hydromulch, compost, bark, cat tracking on straw, gravel, geotextiles, erosion blankets, or other stabilization methods is required on all other sloped areas, increasing the robust nature of stabilizing cover commensurately with increasingly steeper slopes.

2.6.4. *Permanent Stabilization for Arid areas.*

2.6.4.a. In addition to requirements above (see 2.6.2), permanent stabilization requires seeding on all areas that are not covered with permanent stabilization elements or structural elements such as building structure or pavement, or that are engineered or intended for structural purposes like graveled parking or dirt roads.

2.6.4.b. Disturbed areas on projects located outside of populated and developed areas and where no irrigation water is available and where future periodic landscaping maintenance is not planned must be reclaimed with a seed mix of plants indigenous to the area or tolerant to the local climatic conditions that does not include invasive species. Velocity-control devices may be permanent or temporary. If velocity-control devices are intended for temporary use, they must be biodegradable and designed durable enough to withstand extreme weather.

2.7. Construction Dewatering. Construction dewatering can occur onsite without an additional UPDES permit if it is infiltrated or contained onsite and is not discharged offsite. Otherwise, construction dewatering discharges must be permitted under the General Permit for Construction Dewatering and Hydrostatic Testing UPDES Permit UTG070000, which can be obtained online through submittal of an NOI at <https://secure.utah.gov/waterquality>.

2.8. Pollution Prevention Measures. The permittee must design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must address the following:

2.8.1. *Vehicle, Wheel, and Other Washing.* Minimize the discharge of pollutants from equipment and vehicle washing, wheel-wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge

2.8.2. *Exposure to Pollutants.* Minimize the exposure of building materials, building products, construction wastes, trash (see 2.4.3), landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste (see 2.4.4), and other materials present on the site to precipitation and to storm water.

- 2.8.3. Minimization of exposure is not required in cases where the exposure to precipitation and to storm water will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of storm water contamination (e.g., final products and materials intended for outdoor use).
- 2.8.4. *Leaks and Spills*. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- 2.9. Prohibited Discharges. The following discharges are prohibited:
- 2.9.1. Wastewater from washout or cutting of concrete (see 2.4.5),
- 2.9.2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials (see 2.4.5),
- 2.9.3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance,
- 2.9.4. Soaps or solvents used in vehicle and equipment washing.

3. SELF-INSPECTION REQUIREMENTS.

3.1. Inspector Qualifications. Weekly inspections (see 3.2.1 below) must be done by a qualified person. A qualified person means a person knowledgeable in the principles and practices of erosion and sediment control that possesses the skills to:

3.1.1. Assess conditions at the construction site that could impact storm water quality,

3.1.2. Assess the effectiveness of a storm water control measure selected to control the quality of storm water discharges from the construction activity.

3.2. Self-Inspections.

3.2.1. *Weekly Self Inspections:* Self-inspections must occur every 7 days. A written report is required (see 3.4).

3.2.2. *Daily Site Check:* Each day of construction activity, the site must be inspected for dirt in the street and trash on the site. Streets must be swept clean (see note below), if soiled. Dirt must be removed off the street (not swept or washed into the storm drain system). Trash on the site must be picked up and disposed of into trash containers (see 2.4.3.) or disposed of off-site (e.g., municipal/private garbage collection service or construction waste landfill). Sub-contractors must be held responsible by the permit holder to perform these duties in accordance with this paragraph for the activities they are contracted to perform. A written report is not required, however the operator will keep a daily log (for the active construction days) listing the initials of the person doing the site check.

Note: Swept clean means sweeping and scraping. Scraping if there is dirt left behind that is crusted and that sweeping will not pick up. This does not mean removing the microscopic layer of dust or the minute amounts of dirt in the cracks and crevices of the surface left behind staining the pavement.

3.3. Weekly Self-Inspection Requirements.

3.3.1. *Areas to check include the following:*

3.3.1.a. Areas that have been cleared, graded, or excavated that are not stabilized,

3.3.1.b. All storm water control measures, including perimeter controls,

3.3.1.c. Material piles, waste-disposal containers, sanitary facilities, loose trash, litter, washout areas, portable toilets, track out pad, egress points (if any), etc.,

3.3.1.d. Storm water conveyances through the site, treatment areas, and drainages,

3.3.1.e. All storm water discharge points, street gutters, storm water inlets,

3.3.1.f. Areas that have been temporarily stabilized,

- 3.3.1.g. Areas that have been permanently stabilized and are completed do not need further inspections.
- 3.3.2. *Items to check include the following:*
 - 3.3.2.a. All erosion and sediment controls and other pollution prevention controls have been installed, are operational, and are working as intended to minimize pollutant discharges. Determine if any controls need to be replaced, repaired, or maintained.
 - 3.3.2.b. Identify any locations where new or modified storm water controls are necessary.
 - 3.3.2.c. Signs of visible erosion and sedimentation (i.e., sediment deposits) that have occurred and are attributable to discharges from your site,
- 3.4. Weekly Inspection Reports. The weekly self-inspection report must be written within 24 hours of inspection and must include:
 - 3.4.1. The initials of the person doing the inspection,
 - 3.4.2. The date of the inspection,
 - 3.4.3. The weather during the inspection,
 - 3.4.4. The problems that were found needing correction (as they pertain to 3.3.1 and 3.3.2 above),
 - 3.4.5. The date when corrective action is completed,
 - 3.4.6. All self-inspection reports must be filed with other permit records regarding the permit. Inspection reports must be available during an oversight inspection.
- 3.5. Corrective Action: Corrective action must be completed before the next weekly inspection.
- 3.6. Inspections by an Oversight Authority. A copy of an oversight inspection report must be filed and be available for review during other oversight inspections.
- 3.7. Record Keeping. Records regarding this permit, the Authorization to Discharge, the NOT, the SWPPP, inspection reports, other related information and documents must be preserved for 3 years after the submission of the NOT (see 5.10).

4. STORM WATER POLLUTION PREVENTION PLAN (SWPPP).

4.1. SWPPP Requirement. The permittee must prepare a SWPPP before the NOI for the project is submitted. The SWPPP must address all the applicable requirements in Part 2.

4.1.1. *SWPPP Site Design*. The design, installation, and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation; the nature of resulting storm water runoff; and soil characteristics, including the range of soil particle sizes expected to be present onsite. These may be accomplished using experience, estimates, and good judgement, unless unusual or extraordinary site conditions create hazards for which a professional engineer must be consulted.

4.1.2. *Surface Outlets*: When discharging from basins and impoundments, utilize outlet structures that withdraw water from the surface, unless infeasible.

4.2. Contents of a SWPPP. A SWPPP must contain the following:

4.2.1. *Contacts*. The contacts for the site with contact information (name, address, telephone, email) including owner, general contractor, and any other party that significantly affects the implementation of the SWPPP or has responsibilities over the SWPPP.

4.2.2. *Sequence and Estimated Dates of Construction Activities*. Listed in the sequence with estimated dates including the following:

4.2.2.a. Start and end of excavation activities, initial excavation, backfill excavation and final grading,

4.2.2.b. Any temporary or permanent cessation of earth-disturbing activities,

4.2.2.c. Start and end of landscaping if this is done as part of the construction activity before the home is sold.

4.2.3. *Site Map or Chart*. A site map may be hand drawn (as close to scale as possible) or may be a copy of an architect drawing including the following information:

4.2.3.a. Boundaries of the property,

4.2.3.b. Boundaries of soil surface disturbances, including any outside the boundaries of the property,

4.2.3.c. Slopes, including areas of steep slopes,

4.2.3.d. Locations of stockpiles of soils, storage of construction materials, portable toilets, trash containers, concrete washout pits or containers, egress points, and track out pads,

4.2.3.e. Waterbodies, wetlands, and natural buffer areas,

4.2.3.f. Locations and types of BMPs or storm water control measures for the control and/or treatment of storm water flowing onto, through, and/or offsite,

4.2.3.g. Locations of storm water inlets, storm water discharge points going off site,

4.2.3.h. Areas that will be temporarily or permanently stabilized during the

construction period.

- 4.2.4. *Thirty-Foot Natural Buffer.* The SWPPP must show the dimensions and placement of the 30-foot natural buffer, the substitute control measures, or a detailed explanation of why a natural buffer or substitute control measure could not be applied.
- 4.2.5. *Pollutants.* A list of construction site pollutants including the pollutant-generating activity, and an inventory of pollutants for each pollutant generating activity (e.g., paints, solvents, form oil, fuels, and other chemicals; applications, materials, and liquids that if released could pollute storm water).
- 4.2.6. *Waste Management.* Waste management procedures including soil removal, clearing debris removal, demolition removal, trash disposal, construction-waste disposal, and sanitary-waste disposal.
- 4.2.7. *Training.* The permittee will ensure that each subcontractor or utility provider is aware of their responsibilities for keeping soil on the site and preventing pollution. The permittee must keep in mind that they are responsible for and may be issued fines for poor performances by their subcontractors and utility providers. Consideration will be given if the permittee can document when and what instructions were given to the subordinate party.
- 4.2.8. *NOI and Permit.* The SWPPP must contain a copy of this permit and a copy of the Authorization to Discharge Letter for the project.
- 4.2.9. *SWPPP Signature and Certification.* The SWPPP must be signed and certified by both the Owner and the General Contractor in accordance with 5.16.1.a.
- 4.2.10. *MS4 Approval of Project.* For areas where projects are within a regulated MS4's jurisdiction (see definitions in Part 6; the list of regulated MS4's is found on <https://deq.utah.gov/water-quality/municipal-separate-storm-sewer-system-ms4s-permits-updes-permits>), the SWPPP must contain the signature and date of the MS4 reviewer who has approved the proposed project for construction (see 1.7.).
- 4.2.11. *Availability of the SWPPP.* The SWPPP must be available at the construction site covered under this permit during onsite construction activity, unless the SWPPP is available online. If the SWPPP is available online there must be a sign (see 1.10) that describes where the SWPPP can be accessed online. The SWPPP is a plan for the site, and workers must be able to refer to the SWPPP and update it as needed to manage the site (including SWPPPs found on the internet). The SWPPP is not required to be on the site when construction workers leave for the day or when there is no activity occurring on the site, but at all times there must be posted contact information where the SWPPP can be obtained (see Part 1.10). The SWPPP must be made available within 24 hours to DWQ representatives or other oversight inspectors, e.g., U.S. Environmental Protection Agency [EPA] or a local MS4, on request, or immediately during an inspection on the site when there are workers and activity at the site.

4.2.12. *Required Modifications of the SWPPP.* The SWPPP must be modified as follows:

4.2.12.a. During inspections when it is determined from observations of site conditions that storm water control measures are:

4.2.12.a.i. Not adequate or not shown in the SWPPP, or

4.2.12.a.ii. Changes in the SWPPP are necessary for compliance with this permit.

4.2.12.b. When an oversight authority determines that the SWPPP is not adequate based on missing a required SWPPP or permit item, not addressing pollutants properly, not being up to date and reflecting current site conditions, or not being clear, thorough, and understandable.

4.2.13. *SWPPP Modifications Deadline.* Modifications to the SWPPP from inspections or oversight authority direction must occur before or during the next weekly inspection.

5. STANDARD PERMIT CONDITIONS.

5.1. Duty to Comply.

5.1.1. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Utah Water Quality Act (the Act) and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

5.1.2. *Penalties for Violations of Permit Conditions*

5.1.2.a. *Violations.* The Act provides that any person who violates the Act, Utah wastewater or storm water rules, or conditions of a permit issued under the Act, is subject to a fine of \$10,000 per day.

5.1.2.b. *Willful or Gross Negligence.* The Act provides that any person who discharges a pollutant to waters of the State as a result of criminal negligence or who intentionally discharges is criminally liable and is subject to imprisonment and a fine of up to \$50,000 per day (Utah Code Annotated 19-5-115).

5.1.2.c. *False Statements.* The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act, the rules, or this permit, or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring device or method required to be maintained under the Act shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for 6 months, or by both (Utah Code Annotated 19-5-115(4)).

5.2. Duty to Reapply. If a permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit except as provided in 1.6 and 1.7 of this permit.

5.3. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

5.4. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

5.5. Duty to Provide Information. The permittee shall furnish to the Director or an authorized representative, within a reasonable time, any information that is requested to determine compliance with this permit. The permittee must also furnish to the Director or an authorized representative copies of records to be kept by this permit.

5.6. Other Information.

When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the NOI or in any other report to the Director, he or she shall promptly submit such facts or information.

- 5.7. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the Act.
- 5.8. Property Rights. The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.
- 5.9. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.
- 5.10. Record Retention. The permittee shall retain copies of SWPPPs and all reports required by this permit, and records of all data used to complete the NOI to be covered by this permit, for a period of at least three years from the date that the permit for the site is terminated (see 3.7). This period may be extended by request of the Director at any time.
- 5.11. Addresses. All written correspondence under this permit shall be directed to the DWQ at the following address:

Department of Environmental Quality
Division of Water Quality
195 North 1950 West
P.O. Box 144870
Salt Lake City, Utah 84114-4870
- 5.12. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Utah Code Annotated 19-5-117.
 - 5.12.1. No condition of this permit shall release the permittee from any responsibility or requirements under other environmental statutes or regulations.
- 5.13. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit and with the requirements of SWPPPs. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures.

- 5.14. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by a permittee only when necessary to achieve compliance with the condition of the permit.
- 5.15. Inspection and Entry. The permittee shall allow, upon presentation of credentials, the Director or an authorized representative to:
- 5.15.1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

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- 5.15.2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit.
- 5.15.3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this permit; and
- 5.15.4. Sample or monitor at reasonable times for the purposes of assuring permit compliance or as otherwise authorized by law, any substances or parameters at any location.

5.16. Reopener Clause.

- 5.16.1. *Reopener Due to Water Quality Impacts.* If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause, or contribute to a violation of a water-quality standard, the discharger may be required to obtain an individual permit or an alternative general permit in accordance with 1.7.4 of this permit or the permit may be modified to include different limitations and/or requirements.
- 5.16.2. *Reopener Guidelines.* Permit modification or revocation will be conducted according to Utah Administrative Code R317-8-5.6 and UAC R317-8-6.2.
- 5.16.3. *Permit Actions.* This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification revocation and reissuance, termination, a modification of planned changes or anticipated noncompliance does not stay any permit condition.

5.17. Signatory Requirements.

- 5.17.1. All NOIs, SWPPPs, reports, certifications or information submitted to the Director, or that this permit requires be maintained by the permittee, shall be signed as follows:
 - 5.17.1.a. All NOIs shall be signed by either the operator or owner, and SWPPPs shall be signed by both the owner or lessee of the project/property and the general contractor.
 - 5.17.1.b. All reports required by the permit and other information requested by the Director or by an authorized representative of the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - 5.17.1.b.i. The authorization is made in writing by a person described above and submitted to the Director; and
 - 5.17.1.b.ii. The authorization specifies either an individual or a position having such as the position of manager, operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may therefore be either a named individual or any individual occupying a named position.

5.17.1.b.iii.

5.17.1.c. *Certification.* Any person signing documents under 5.16 shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

5.17.2. If a document is to be signed electronically, the Division's rules regarding electronic transactions govern, if applicable.

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6. DEFINITIONS

Arid Areas: Areas with an average annual rainfall of 10 inches or less.

Authorization to Discharge Letter: The receipt generated when a Notice of Intent (NOI) is successfully entered and payment is processed by DWQ. The receipt demonstrates that the permittee has coverage under the appropriate Storm Water Permit. Authorization to Discharge Letters contain the dates of the permittee's coverage under the Construction General Permit (CGP).

Common Plan of Development (or sale): A plan to subdivide a parcel of land into separate parts for separate sale. This can be for a residential, commercial, or industrial development. The plan originates as a single parcel that is separated into parts. This usually goes through an approval process by a local governmental unit, but in some cases, it may not require that process. The original plan is considered the "common plan of development or sale" whether phased or completed in steps.

Additional information related to Common Plan of Development for Permit Purposes:

For UPDES storm water permit purposes, a common plan must have been initiated after October, 1992. A common plan of development or sale remains so until each lot or section of the development has fulfilled its planned purposes (e.g. in a residential development as homes are completed, stabilized, and sold or occupied). As lots or separated sections of the development are completed, the lot or section is stabilized, and the plan purposes are fulfilled for that area, lot, or section, it is no longer part of the common plan of development or sale (e.g. if a home is sold in a development and the owner decides to add a garage somewhere on the lot, that garage project is not part of the common plan of development or sale).

In this process a common plan of development or sale may become reduced in size and/or separated by completed areas which are no longer part of the common plan of development or sale, but all unfinished lots remain part of the same common plan development or sale until they are completed, stabilized, and fulfilled according to the purposes of the plan.

Construction Activity: Earth-disturbing activities, such as the clearing, grading, and excavation of land.

Construction Waste: Discarded material such as packaging materials, scrap construction materials, masonry products, timber, steel, pipe, and electrical cuttings, plastics, and Styrofoam.

Corrective Action: For the purposes of the permit, any action taken to 1) repair, modify, or replace any storm water control used at the site; 2) clean up and dispose of spills, releases, or other deposits found on the site; and 3) remedy a permit violation.

Dewatering: The act of draining rainwater and/or groundwater from building foundations, vaults, and trenches (Note: if dewatering is occurring on a construction site and it causes a discharge to waters of the State, it must be permitted separately under the General Permit for Construction Dewatering and Hydrostatic Testing , UPDES Permit UTG070000).

Director: The director of the Division of Water Quality.

Discharge Point: For the purposes of this permit, the location where collected and concentrated storm water flows are discharged from the construction site.

Final Stabilization: All disturbed areas must be covered by permanent structures such as pavement, concrete slab, building, etc., or for areas not covered by permanent structures but that are receiving 20 inches or more of average annual precipitation, vegetation has been established with a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover equivalent to 70 percent of the natural background vegetative cover. In the case of areas that are not covered by permanent structures, but that are receiving less than 20 inches of average annual precipitation (arid areas, 0-10 inches; semi-arid areas, 10-20 inches), final stabilization is equivalent to the requirements of 2.6.3 of this permit, including the provisions for permanent stabilization.

Impervious Surface: For the purpose of this permit, any land surface with a low or no capacity for water infiltration including, but not limited to, pavement, sidewalks, parking areas, driveways, or rooftops.

Indian Country: Defined at 40 CFR §122.2 as follows:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities within the borders of the United States whether within the originally or subsequently acquired territory thereof; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-ways running through the same.

Infeasible: Infeasible means not technologically possible or not economically practicable and achievable in light of best industry practices. DWQ notes that it is not intentional for permit storm water control efforts required in the permit to conflict with State water rights law. In the case of conflict, State water rights law supersedes.

Install or Installation: When used in connection with storm water controls, to connect or set in position storm water controls to make them operational.

Municipal Separate Storm Sewer System or MS4: A storm-sewer system owned and operated by a state, city, town, county, district, association, or other public body created by or pursuant to State law having jurisdiction over disposal of storm water that discharges to waters of the State (e.g., Sandy City owns and operates the MS4 within the jurisdiction of Sandy City, or essentially Sandy City is the MS4).

Natural Buffer: For the purposes of this permit, an area of undisturbed natural cover surrounding surface waters within which construction activities are restricted. Natural cover includes the vegetation, exposed rock, or barren ground that exists before earth-disturbing activities begin.

Oversight Authority: Oversight authorities for storm water permits are agents from the EPA, DWQ or the Municipality of jurisdiction, when they are addressing compliance of storm water permits.

Owner: For the purpose of this permit an owner has ownership of a property on which construction activity is taking place, but it also includes ownership of a project for which construction activity is occurring on property that is leased. An owner is the party that has ultimate control over construction plans and specifications, including the ability at the highest level to make modifications to those plans and specifications. “Owner” in this context is the party that has ultimate control over the destiny of a project.

Permittee: The owner and/or the general contractor (those that signed on the NOI), for the project.

Pollutant-Generating Activities: At construction sites, for the purposes of this permit, those activities that lead to or could lead to the generation of pollutants, either as a result of earth-disturbance or a related support activity. Some of the types of pollutants that are typically found at construction sites are as follows:

- Sediment
- Nutrients
- Heavy metals
- Pesticides and herbicides
- Oil and grease
- Bacteria and viruses
- Trash, debris, and solids
- Treatment polymers
- Any other toxic chemicals

Pollution Prevention Measures: Storm water controls designed to reduce or eliminate the addition of pollutants to construction site discharges through analysis of pollutant sources, implementation of proper handling/disposal practices, employee education, and other actions.

Project Site: A project site is not necessarily contained within the property boundaries designated for the final construction objective, or property owned by the owner of the project. The project site includes all areas affected by the construction process where disturbances, storage, or other construction activity occurs. If an area outside of property boundaries is used for the construction process, DWQ assumes the permittee has the right to access and use that area and the permittee must also meet permit requirements in that area.

Receiving Water: A “Water(s) of the State” is as defined in UAC R317-1-1, into which the regulated storm water discharges (see waters of the State listed below).

Rumble Strip: A rigid ramp/track (often made of steel) that vehicles drive over that causes tires to flex and shake for the removal of dirt.

Semi-Arid Areas: Areas with an average annual rainfall of between 10 and 20 inches.

Stabilization: The use of vegetative and/or non-vegetative cover to prevent erosion and sediment loss in areas of disturbed soil exposed from the construction process.

Storm water: Means storm water runoff, snowmelt runoff, and surface runoff and drainage.

Storm Water Control Measures: Refers to any storm water control, BMP, or other method used to prevent or reduce the discharge of pollutants to waters of the state.

Storm Water Inlet: An entrance or opening to a storm water conveyance system, generally placed below grade so as to receive storm water drainage from the surrounding area.

Storm Event: A precipitation event that results in a measurable amount of precipitation.

Track Out Pad: A track out pad is a pad normally made up of 4 to 6 inches of up to 6 inch cobble rocks or gravel of various size (the size is sometimes specified by a local MS4). Sometimes it is underlain with a fabric to keep dirt and mud separated from rock or gravel. It is wide enough to underlay the tires of any/all traffic leaving a construction site as vehicles exit the site. Its function is to flex and shake the tires to dislodge mud and dirt from the tires of vehicles leaving the construction site. Track out pads must be stirred or worked periodically so that mud or dirt collected is moved to the bottom and the rock/gravel on the pad is clean and effective dislodging more mud/dirt.

Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, that are contained within, flow through, or border upon this state or any portion thereof, except that bodies of water confined to and retained within the limits of private property, and that do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife, shall not be considered to be "Waters of the State" under this definition (see Utah Code Annotated, 19-5-102(23)(a) &(b), and UAC R317-1-1).

FACT SHEET/STATEMENT OF BASIS
STORM WATER GENERAL PERMIT FOR CONSTRUCTION ACTIVITY
CONNECTED WITH SINGLE LOT HOUSING PROJECTS
OR THE “COMMON PLAN PERMIT”
UPDES PERMIT No. UTRH00000

BACKGROUND

The storm water program, authorized by the Federal Clean Water Act (CWA), went into effect in October, 1992. It requires anyone doing construction activities which will disturb 5 acres or more, or smaller parcels that are part of a common development plan, to obtain a storm water permit (Utah Administrative Code [UAC] R317-8-3.9(1)(a)). Phase II of the storm water program, later implemented by the Utah Division of Water Quality (DWQ), expanded the permit requirement to include “small construction,” defined as soil disturbances from construction activity affecting from one to less than 5 acres (UAC R317-8-3.9(6)(e)).

DWQ administers the Utah Pollution Discharge Elimination System (UPDES) program (CWA Section 402) under a memorandum of agreement with the EPA dated July 7, 1987. UPDES permits issued for construction storm water discharges are required to include conditions for meeting technology-based effluent limitations guidelines and, where applicable, any new source performance standard established under the CWA Section 306.

A technology-based standard is included in the USEPA Effluent Limitations Guidelines and New Source Performance Standards for Construction and Development (C&D) related storm water discharges (40 Code of Federal Regulations [CFR] 450). This standard is referred to as the C&D Rule, and its requirements include a suite of non-numeric effluent limitations that apply to all permitted construction sites. These limits include requirements for erosion and sediment controls, pollution prevention measures, soil stabilization, dewatering, prohibited discharges, and surface outlets.

PERMIT DEVELOPMENT INFORMATION

The development of the Storm Water Permit for Construction Activity Connected with Single Lot Housing Projects (UTRH00000) is a new permit. Its purpose is to partner with the existing Utah Construction General Permit (U-CGP) for storm water discharges in providing permit coverage for construction activity. The Common Plan Permit (CPP) streamlines existing requirements and addresses climate conditions in Utah.

It was created for small home builders who construct approximately 10 or less house projects a year, and/or owner builders who generally do not have the resources and permitting expertise larger entities do. Its clarity and directness will also benefit local building authorities who are often consulted to explain stormwater requirements.

Larger residential construction ventures are not barred from applying for the coverage provided by this permit; however, taking that path would require maintaining several small area permits which could be more costly and less efficient. Likewise, small home builders are not barred from applying for coverage under the U-CGP if they are comfortable addressing compliance requirements.

In 2020, the permit will be updated to include requirements to keep and maintain Authorization to Discharge Letters as proof of permittee coverage under the permit.

DISCUSSION OF UNIQUE CLIMATE ISSUES IN UTAH

Utah is the second most arid state in the nation. DWQ has wrestled with stabilization requirements for the arid- and drought-stricken areas of the state during inspections of construction sites since the beginning of the storm water program in 1992. The general stabilization requirements given in 40 CFR 450.21(b) is not economically practicable and achievable for arid, semi-arid, and drought-stricken areas in Utah. DWQ created the CPP to address this challenging climate issue. Some of the differences observed between wetter climates and arid climates are:

1. The lack of climatic moisture causes less dense vegetative cover in arid climates. As a result, nearly all arid areas naturally have more erosion and sediment transport under normal precipitation events. The more arid the area, the more sediment transport from erosion.
2. Many streams in arid areas naturally flow heavy with sediment after storm events that produce runoff due to this less dense vegetative cover.
3. Arid areas have fewer storm events that cause runoff.
4. Moisture is a significant factor in seed germination. Regrowth of vegetation after clearing and excavating takes much longer, even years sometimes, to re-establish in arid and semi-arid areas, even when topsoil is preserved and reused, unless irrigation water is applied.
5. Topsoils in arid areas have smaller fractions of organics and biota than that found in soils in wetter climates. Only hardier plants thrive in arid areas because of the poor soil quality, reduced precipitation, and generally higher temperatures. These harsh conditions mean many indigenous plants in arid areas are not fast-growing, and those plants that are fast-growing grow in spurts during and immediately after precipitation events, then die or go dormant.

6. Stabilization factors for soil surfaces in developed areas include roads, driveways, buildings, and irrigated and designed landscaping, all of which provide a powerful stabilizing effect. In undeveloped areas, the stabilizing force for soil comes, for the most part, from the roots of natural vegetation. There are other factors like soil type, the residue of dead and dying plants on the soil surface, and the protection of branches, leaves, and aboveground vegetation that break the fall of raindrops that dislodge dirt when hitting the ground. The stabilizing force from natural vegetation in undeveloped areas is much stronger in wetter climates and is somewhat equivalent to the manmade factors influencing soil stabilization. The scarcity of vegetation or the bunching of vegetation between bare areas is more prevalent in arid areas. For this reason, undeveloped areas are more susceptible to erosion than the developed areas in arid climates.

When it rains in arid areas, more erosion happens naturally. Because there is less precipitation in arid areas, revegetation happens much more slowly and growth is slow outside of rain events. Without control measures, construction activity increases erosion in arid areas, but the increased erosion is not as significant as in wetter areas.

ARID ADAPTATIONS TO THE PERMIT

EPA recognized the arid climate issues in its stabilization requirements in 40 CFR 450.21(b) as follows:

“In arid, semi-arid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures shall be employed as specified by the permitting authority.”

The EPA CGP standard for final stabilization (70 percent evenly revegetated with no bare areas) is an example of the challenges arid areas face. This standard does not account for the time needed for revegetation to occur in arid areas. To address this issue, Utah’s CPP requires erosion control measures be placed and left after the permit is terminated with no requirement to remove them. These control measures can be either permanent (e.g., rock check dam, geotextile lined waterway) or temporary, but if they are temporary, they must be biodegradable natural products. The objective is to slow erosion to match what occurs naturally while requiring a seed mix and species compatible with the climate and to allow a longer time frame for seed germination and plant maturation which permanently restores the natural stabilizing forces.

Other adaptations for temporary stabilization measures are also included in the permit, see the last paragraph under Part II, found in the section BRIEF DESCRIPTIONS FOR EACH PART OF THE PERMIT AND THE BASIS FOR THEIR REQUIREMENTS.

REQUIREMENTS CONTAINED IN THE PERMIT

All control elements found in 40 CFR 450 (The Construction and Development Point Source Category) are included in the CPP. Additional controls are incorporated by best professional judgement and are referred to as best management practices (BMPs).

The CPP is designed to be protective of water quality throughout Utah. DWQ believes that if appropriate pollution controls are properly placed and maintained in locations where erosion and sediment transport is likely to occur or is occurring, this permit is protective of all areas, including impacted waters and high-quality waters.

In the NOI, the permittee must identify the waterbody and if the waterbody is high-quality or impacted. As required in the CPP, the permittee must take steps to eliminate or mitigate any pollution effects caused by the construction activity so water quality standards are not compromised. If information becomes available indicating a permitted site is causing or contributing to a violation of a water-quality standard, coverage may be re-evaluated and may result in permit revocation, and/or a requirement to obtain an individual permit or another general permit.

DESCRIPTION OF DISCHARGE

This permit covers storm water discharges from construction activities as defined in UAC R317-8-3.9(6) (d) 10 & (e) 1. Also, under UAC R317-8-3.9(6)(e)2 any construction activity can be required to obtain a permit by DWQ based on potential contribution to a violation of a water-quality standard or for significant contribution of pollutants to waters of the State.

Storm water discharges covered by the CPP have potential for erosion and sediment transport from areas of disturbed soil cause by construction activity (clearing, grading, and excavating for construction purposes) or by exposure to construction-related chemicals and materials.

ANTIDegradation REQUIREMENTS

The antidegradation requirements for this permit can be found in UAC R317-2-3.5.b.3, which states:

“An Anti-degradation Level II review is not required where (any of the following conditions apply): ...Water quality impacts will be temporary and related only to sediment or turbidity and fish spawning will not be impaired.” Therefore, because this permit relates to only temporary construction projects with sediment or turbidity constituents, a further antidegradation review is not required.

BRIEF DESCRIPTIONS FOR EACH UPDATED PART OF THE PERMIT FOR THE 2020 UPDATE

Part I: Permit Part [1.4.] was updated to reflect the new Online Permits Database website URL, as well as adding a requirement to download and maintain a copy of the Authorization to Discharge Letter for proof of coverage.

Permit Part [1.5.] was updated to include the requirement to maintain the Authorization to Discharge Letter in the SWPPP.

Permit Part [1.7.] was updated to clarify that the permittee’s coverage begins when an Authorization to Discharge Letter was received by the permittee.

Part VI: Permit Part [6.] was updated to include a definition for the Authorization to Discharge Letter

BRIEF DESCRIPTIONS FOR EACH PART OF THE PERMIT AND THE BASIS FOR THEIR REQUIREMENTS

Part I: Part I of the permit contains the scope of coverage under this permit, including types of projects and discharges allowed, and the mechanics of coverage, renewal, and termination of coverage. The contents of Part I define the tools that allow DWQ to identify, control, and permit construction activity.

Part II: The permit requirements pertaining to storm water and water quality are found in Part 2 of the permit. Controls for stockpiles of materials, perimeter controls, and inlet protection (Parts 2.1.1, 2.1.2., and 2.1.3) are requirements based on best professional judgement.

The federal limitations in 40 CFR 450 required for storm water discharges related to construction activity are represented in Part II of the permit. Table 1 below outlines the federal requirements and the corresponding CPP requirements. Part IV includes portions of 40 CFR 450 that are not in Part II).

Table 1. Requirements from 40 CFR 450 and the location of their analogue in the permit.

Federal Requirement from 40 CFR 450.21		Citation for Comparable CPP SW Permit Requirement
Section Number	Section Name/Description	
(a)	Erosion and sediment controls	
(a)(1)	Control storm water volume and velocity to minimize soil erosion in order to minimize pollutant discharges.	Part 2.3.3
(a)(2)	Control storm water discharges, including both peak flowrates and total storm water volume, to minimize channel and stream-bank erosion and scour in the immediate vicinity of discharge points.	Parts 2.3.4
(a)(3)	Minimize the amount of soil exposed during construction activity.	Part 2.3.1
(a)(4)	Minimize the disturbance of steep slopes.	Part 2.3.2
(a)(5)	Minimize sediment discharges from the site.	Part 4.1.1
(a)(6)	Provide and maintain natural buffers around waters of the United States, direct storm water to vegetated areas and maximize storm water infiltration to reduce pollutant discharges, unless infeasible.	Part 2.3.5

Federal Requirement from 40 CFR 450.21		Citation for Comparable CPP SW Permit Requirement
Section Number	Section Name/Description	
(a)(7)	Minimize soil compaction	Part 2.5
(a)(8)	Preserve topsoil unless infeasible	Part 2.5
(b)	Soil stabilization	Part 2.6
(c)	Dewatering	Part 2.7
(d)	Pollution prevention measures	
(d)(1)	Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters	Part 2.8.1
(d)(2)	Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to storm water	Part 2.8.2
(d)(3)	Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak-prevention and response procedures	Part 2.8.3
(e)	Prohibited discharges	
(e)(1)	Wastewater from washout of concrete, unless managed by an appropriate control	Part 2.9.1
(e)(2)	Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials	Part 2.9.2
(e)(3)	Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance	Part 2.9.3
(e)(4)	Soaps or solvents used in vehicle and equipment washing	Part 2.9.4
(f)	Surface outlets	Part 4.1.2

Other permit requirements found in Part II are:

1. Protection of critical and sensitive areas (Part 2.2);
2. Control of track-out (Part 2.4.1);
3. Management of waste and debris (Part 2.4.2);
4. Securing of portable sanitary devices (Part 2.4.3), and
5. Washout procedures for paint, concrete, stucco, and etc. with management of oil-based paint cleanout (Part 2.4.4).

The list of five items immediately above are based on best professional judgement and are common in storm water permits nationwide. However, due to climate reasons stated previously, soil-stabilization requirements for arid and semi-arid areas are modified in the CPP as follows:

- Stabilization on visually flat areas will not be required.
- Stabilization for mild slopes (up to 20 percent) will not be required, but velocity dissipation devices shall be placed across all storm water drainages at a frequency that removes the energy that causes erosion.
- Non-vegetative stabilization is required on all slopes over 20 percent unless irrigation is available and vegetative stabilization can be implemented. The intent is to increase the robust nature of stabilization with increasingly steeper slopes.
- Permanent stabilization requires seeding on all areas that are not covered with structural elements such as building or paving, or that are engineered or intended for structural purposes like graveled parking or dirt roads. The revegetation process implemented must mimic the natural revegetation process for germination and growth of seeds during the infrequent storm events.
- Disturbed areas on projects outside of populated areas where no irrigation is available shall be reclaimed with a seed mix of plants indigenous to the area. No invasive species are allowed.

Part III: Part III contains requirements for the permittee concerning self-inspection reports. Only the essential elements that are deemed necessary for an effective inspection of the site are included in this section plus requirements for the inspection report. An inspection report form will be made available on the DWQ web site at: <http://www.deq.utah.gov/Permits/water/updes/stormwatercon.htm>.

Some inspections in the permit require a written report and some do not. The required written inspection reports are necessary because they give regulators and the permittee a record of how compliance and corrective action has occurred on the site.

Part IV: Part IV contains the requirements for a storm water pollution prevention plan (SWPPP). The development of a SWPPP is required. The SWPP is used as a planning tool and metric for the builder and the regulator to address storm water quality concerns as construction progresses and gives the regulator the ability to measure performance. A SWPPP is a common element of a storm water permits nationwide. They have been required from the beginning of the construction storm water program and have proved valuable for management of storm water on an active construction site in the same way that charts and specifications are valuable or necessary for the erection of structural elements of a project. The SWPPP requirements in the CPP were pared down and streamlined from the requirements for a SWPPP in the U-CGP.

Part V: Part V contains the standard conditions for all UPDES permits issued by DWQ for the State of Utah. The requirements in Part V come from UAC R317-8.

Part VI: Definitions.

PERMIT DURATION

This permit is scheduled to be effective for a duration of five (5) years from date of permit issuance. This permit and fact sheet have been drafted by Ryan Curtin, Construction Storm Water Program Coordinator, May 4, 2020.

PUBLIC NOTICE INFORMATION

Began:

Ended:

Public Notice Publication:

Comments Received:

DWQ-2020-010989

PND DRAFT