

## FACT SHEET -- STATEMENT OF BASIS

### 2019 RENEWAL OF THE UTAH CONSTRUCTION STORM WATER GENERAL PERMIT

#### UPDES PERMIT No. UTRC00000

**GENERAL PERMIT INFORMATION:** This permit (UTRC00000) renewal serves as a replacement of the previous Storm Water General Permit for Construction Activities (CGP) issued on July 1, 2014 (UTRC00000). The Utah CGP is a general permit that will continue the permit coverage of construction activity for storm water discharges throughout the State of Utah except within Indian country, which is managed and overseen by the EPA. This permit covers discharges from construction activities as defined in Utah Administrative Code (UAC) R317-8-3.9(6)(d)10 (construction activity 5 acres or more) and R317-8-3.9(6)(e)1 (construction activity 1 to 5 acres).

**BACKGROUND:** The State of Utah was granted primacy in the National Pollutant Discharge Elimination System (NPDES) program by the USEPA in 1987. Utah's program is known as Utah Pollutant Discharge Elimination System (UPDES). The storm water program is one part of the UPDES program. Utah began issuing CGP coverage in 1992 for sites disturbing greater than or equal to five acres, or less than five acres if part of a common plan of development or sale that was five acres or greater. During this time period the storm water program was referred to as Phase I. In 2002, Phase II of the storm water program was implemented in Utah wherein the UPDES storm water program added a permit requirement for small construction sites, which are one to five acres, or less than an acre if part of a common plan of development or sale that is one acre or greater.

The Division of Water Quality (DWQ) presently handles most storm water permit coverage by issuing general permits, although it reserves the authority to issue individual permits as needed. Approximately 3,000 construction sites are currently covered under the CGP at any time.

The CGP for the UPDES program started with a modified version of the early EPA CGP. From there the Utah CGP has been renewed every five years (as required by the Clean Water Act). This current revision of the Utah CGP is modeled after the 2017 EPA CGP, adapted to Utah climate, business practices, and state program.

A storm water pollution prevention plan (SWPPP) is required by this permit to address the exposure of pollutants inherent in each proposed construction process at each site, so that activities, materials, and processes are managed by Best Management Practices (BMPs) to minimize pollutants being transported off the site by storm water runoff. Specific self-inspection requirements and frequencies are included to ensure maintenance and effectiveness of BMPs. Stabilization of the site is required prior to termination of permit coverage to prevent the discharge of pollutants after the completion of construction.

## **CHANGES FROM THE EARLIER UTAH CGP:**

For sections that have been removed, the permit part listed in parenthesis () refers to the previous CGP. For sections that have been added, the permit part in brackets [] refers to this revision of the CGP.

### **Part 1**

The statement that no permit is necessary if a construction site contains all storm water with no risk to groundwater has been removed (1.0). The burden of proving that there would be no discharge of pollutants to groundwater or surface waters made this impractical. DWQ encourages the use of the Erosivity Waiver for sites that qualify and requires that all other sites which meet the disturbance area criteria obtain permit coverage.

The definition of “operator” [1.1.1] was updated to match the EPA’s definition.

The requirement for the operator to provide information, coordination, and/or contract obligations so all parties involved in the project follow the SWPPP has been removed (1.1.1.c). The intent of this requirement is adequately covered in Part 6.2 which makes the operator responsible for all activities on the site and for ensuring that all subcontractors or outside service providers understand the requirements of the permit.

Information on Common Plan Permit coverage [1.1.2.c] and Erosivity Waiver Certifications [1.1.2.d] were added to provide clarity on alternative options to coverage.

Permit paragraphs discussing the Endangered Species Act (1.1.5) and the Natural Historic Preservation Act (1.1.6) were removed as non-essential explanation.

Prohibited discharges have been added [1.3.]. This change is to complete the purposes of Part 1, part of which is to characterize the type of discharges allowed or not allowed by this permit.

A 60-day grace period after the expiration date of a permit has been added [1.4]. This grace period was informally implemented during the last permit cycle to allow projects that were close to completion to finish and provide a window during which renewal could occur.

The requirement that the permitted site contact the local MS4 to request a final inspection has been removed (1.4.2.a.ii). MS4s are responsible for letting operators know how they would like to be notified of completion per their Municipal Separate Storm Sewer System (MS4) Permit.

The statement providing automatic coverage by this permit for existing projects permitted under the previous CGP has been modified to state that if additional action is needed, such as acknowledgement of the revised permit language and requirements; permittees will be notified using the email listed on their NOI [1.4.3]. Previous permit language in this section also allowed 6 months to come in compliance with the permit requirements. The new permit provides a 3 month window from the issuance of the new permit to come into compliance with any new requirements. The changes within this permit revision were not extensive enough to warrant a 6 month transition period.

The explanation of coverage conditions if the CGP was not reissued was unnecessary and was removed (1.4.4.d).

## **Part 2**

The requirement to adjust storm water control and management strategies throughout the project to match the needs for each phase has been added [2.1.3.b]. This has always been the intent of the permit and was added to formalize the requirement. Separate plans or modifications to the SWPPP are not necessary if there is no need to change the controls being used.

The requirement to comply with BMP maintenance recommendations from the manufacturer or good engineering practices based on site conditions has been added [2.1.4] to encourage better maintenance practices. Deviations from manufacture recommendations must be documented.

The requirement to address maintenance concerns discovered in storm water controls immediately if practical, within seven business days, or prior to any weather or activities utilizing the control has been added [2.1.4]. Previous requirements were to make repairs immediately or as identified in the SWPPP (2.1.1d.ii). This requirement was modified to provide a feasible time period and flexibility when repairs are not practical to make immediately and are not immediately needed.

Details on buffer controls have been removed from the main body of the permit (2.1.2.a.ii & 2.1.2.a.v) and are located in Appendix A. This removes repetition of requirements that were located in both the permit body and the appendix.

The requirements for high altitude and heavy snow conditions have been removed (2.1.2.i) to eliminate redundancy with permit part 2.1.1 which specifies that BMPs must be designed to handle the expected precipitation events.

Containment or cover is now required for blow-able or pollutant producing waste [2.3.3.e.2]. Options for containment include but are not limited to (1) covers such as tarps or lids (2) bagging waste to prevent blowing or leaking (3) use of leak-proof dumpsters. This requirement meets the intent of EPA's permit requirement to cover dumpster while allowing other alternatives to reduce the exposure of waste materials to storm water. Separation of different types of waste is recommended to make the control of potential pollutants easier and recycling is encouraged where possible. Waste management practices may need to change during the different phases of construction based on the waste produced.

## **Part 3**

The requirement, that a site discharging to impaired or sensitive waters must address the impairment parameter (other than sediment and nutrients) in the SWPPP. If it is present on site and to implement controls has been added [3.2]. This elaborates on the requirements included in part 3.1 and is to comply with the TMDL program and anti-degradation program in Utah.

## **Part 4**

The inspection requirements for temporarily stabilized areas has changed from once per month (4.1.4.a) to twice per month for the first month and then once per month afterwards [4.4.1.a]. This change is to match EPA requirements and provide increased attention to newly stabilized areas. A specific inspection frequency has also been added [4.4.1.c] for “linear construction sites” to match the EPA’s permit requirements and address the unique conditions of linear projects.

Inspection frequency reductions have been added [4.4.2] as an option for arid and semi-arid locations where the frequency of storm events is reduced.

The situation allowing for suspension or reduction of inspections based on frozen conditions has changed from an expectation of 30 days of frozen conditions (4.1.4.c.i.1/4.1.4.c.ii.1) to an expectation of at least three months of frozen conditions [4.4.3.a.1/4.4.3.b.1] to match EPA’s permit requirements.

Enabling access to shared controls during a site inspection was added [4.8] to allow EPA, DWQ, and MS4s to conduct complete oversight inspections.

The requirement to allow photographs, videos, measurements, surveying, and other documentation was removed (4.2.5) to allow locations with confidentiality or security concerns to prohibit select activities.

The requirement to consider the cause of a BMP’s failure during site inspections was added [4.6.1]. This was added to help identify situations where an installed BMP is not appropriate to the site conditions or construction activities are not working well with the BMP. It expects that inspectors will note the cause of a BMPs failure if it is apparent.

## **Part 5**

Conditions triggering corrective actions were clarified [5.1.1 – 5.1.4] to eliminate previously vague language (5.1).

Corrective actions that require new or replacement controls or significant repair are now required to be completed within seven days when feasible [5.2.3]. This matches the requirements in EPA’s permit and ensures corrective actions get addressed in a reasonable time period. Previously corrective actions were required “expeditiously and based on urgency” or “as soon as practicable” (5.2.1).

Corrective actions that have been completed are now required to be documented within 24 hours of their observed completion [5.4.2.] instead of the 7 day window that was previously provided (5.4.2). This meets the intent of EPA’s permit requirement and encourages immediate documentation of changes in the SWPPP so they are not forgotten.

## **Part 6**

The requirement for appropriate personnel involved with storm water to be trained on the permit deadlines associated with installation, maintenance, and removal of controls and stabilization has been added [6.3.1] along with the requirement for personnel involved with storm water to have easy access to the applicable portions of this permit and the SWPPP [6.4] These requirements match the requirements of EPA’s permit and ensure personnel are provided with the necessary resources.

## Part 7

New requirements were added for those who write SWPPPs [7.2]. This requirement applies only to those developing SWPPPs for sites greater than 5 acres or sites with challenges such as steep slopes or nearby surface waters. The quality of construction site inspections improved substantially when the inspection certification program began with the past construction permit. The additional requirements to raise the standards for SWPPP writers (in the CGP) are designed to bring better storm water control management to challenging or large construction sites.

The SWPPP requirement to include a calculation of the total disturbed area now specifies that on-site and off-site construction support activity areas are to be included in the calculation [7.3.2.c]. This was the intent in the previous permit and the language was added to clarify the requirement.

The requirement to have in the SWPPP the maximum area expected to be disturbed at one time was removed (7.3.2.e). This information was deemed unnecessary and difficult for some projects to estimate. Including the total acreage to be disturbed in the SWPPP is still required.

Providing business days and hours for the project in the SWPPP was added as a requirement [7.3.2.h] to match EPA's permit requirements.

The requirement to document circumstances that have affected stabilization schedules (7.2.6.b.vi.d) has been removed to reduce unnecessary documentation and been replaced with guidance on the importance of meeting deadlines [7.3.5.b.6.iii].

The requirement for a SWPPP to be available within 30 minutes has been removed (7.3). The 30 minute time frame was originally included to allow time on large sites where the SWPPP may not be stored near the entrance or if the possessor of the SWPPP had briefly left the site. The requirement that a copy of the SWPPP be kept at the site or an easily accessible location [7.4.1] remains with clarification added to state that electronic storage is acceptable as long as personnel can access it [7.4.1]. It is still acceptable that larger sites may require additional time to retrieve the SWPPP if it is onsite but not located near the entrance that the inspector uses.

It is now required that you notify any persons or subcontractors that are impacted by a modification you have made to the SWPPP [7.5.4]. This matches the EPA's permit and keeps all operators informed of changes on site.

The language describing final inspections after submittal of an NOT has been removed (8.3). The final inspection is to be conducted by DWQ or the local MS4 to confirm that the permittee has completed the requirements of 8.2. The inspection is not the responsibility of the permittee and therefore has been removed.

**Appendices** The below table summarizes changes to the appendices for this permit.

<b>Previous Appendix</b>	<b>New Location</b>	<b>Changes</b>
Appendix A – Definitions and Acronyms	Part 10 of the permit	Acronyms that did not appear in the permit were removed.
Appendix B – Small Construction Waivers and	On DWQ construction webpage under Erosivity Waiver heading. Reference also	

<b>Previous Appendix</b>	<b>New Location</b>	<b>Changes</b>
Instructions	added to Part 1.1.2. <a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm</a>	
Appendix C – List with Information on Utah’s Waters	Link is provided in Part 1.1.6.	
Appendix D – Buffer Guidance	Appendix A	Location information was added to risk level tables to more accurately present EPA data and locations unrelated to Utah were removed.
Appendix E – List of MS4s with Municipal Storm Water Permits	On DWQ MS4 webpage <a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-municipal.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-municipal.htm</a>	
Appendix F – 2 Year, 24 Hour Storm Frequencies in Utah and Average Annual Rainfall in Utah	Removed. 2 Year, 24 hour storm frequency data can be obtained online and the permit has alternative calculation options that can be used in place of this.	
Appendix G – Standard Permit Conditions	Part 9 of the permit	
Appendix H – Notice of Intent Form (NOI)	On DWQ construction webpage <a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm</a>	
Appendix I – Notice of Termination (NOT)	On DWQ construction webpage <a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm</a>	
Appendix J – Visual Monitoring Form	Removed	Visual observations will be added to the self-inspection form.
Appendix K – Erosivity Waiver Form	On DWQ construction webpage <a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm</a>	
Appendix L – Example Self-Inspection Form	On DWQ construction webpage <a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm</a>	A new form is being developed based on the State construction inspection form.
Appendix M – Notice for	On DWQ construction webpage	

<b>Previous Appendix</b>	<b>New Location</b>	<b>Changes</b>
New Owner/General Contractor Operations	<a href="https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm">https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/storm-water-general-construction.htm</a>	

**PERMIT DURATION:** This permit is scheduled to be effective for duration of 5 years from date of permit issuance.

**PUBLIC NOTICE INFORMATION**

UPDES permits are required to have a 30-day public comment period before issuance.

Began: April 30, 2019

Ended: May 29, 2019

Public Notice Publication: Deseret News & Salt Lake Tribune

This permit has been adapted from the early Utah CGP version and the 2017 EPA CGP, it was drafted by Harry Campbell, P.E., CPESC, with the Utah Division of Water Quality, June 18, 2018. The permit was updated on April 23, 2019 by Jeanne Riley, Storm Water Manager, Utah Division of Water Quality and Lisa Stevens, Storm Water Specialist, Utah Division of Water Quality.