

## FREQUENTLY ASKED QUESTIONS

### Who is required to get a UPDES Construction Storm Water Permit?

Operators and owners of construction activity that disturb 1 acre or greater are required to get a Storm Water Permit from the Division of Water Quality, however many construction sites that disturb less than 1 acre are also required to get a permit. A site that is less than 1 acre is required to get permit coverage if it is part of a "common plan of development or sale" that is over 1 acre. The term "disturb" is used above. The permit is required based on disturbed area caused by construction activity (not property boundaries). Disturbed area can extend beyond property boundaries or may be less than property boundaries.

### Who is an operator for a UPDES Construction Storm Water Permit?

An operator at a construction site is one who controls the specifications of the facility to be constructed and/or one who controls the day-by-day activities at the permitted construction site. The NOI specifically requires the owner to sign on the NOI because owners are an important party that must be included when considering the activities at a construction site. The owner is a specific type of operator because they control the specifications of the facility to be built. It is possible that the owner is the builder also, or the party that oversees construction operations. A general contractor (or the person in charge of building the facility) is an operator because he/she controls the day-by-day activities on the site. Most often there is an owner and a general contractor for a construction site, and when that is the case there are two people who must sign the NOI. There are cases where the owner and the general contractor (or builder) are the same party. In that case only one party must sign the NOI.

A lessee is a party that qualifies as the owner. A lessor typically does not have control of specifications of the facility to be built.

### What is Common Plan of Development or Sale?

A Common Plan of Development or Sale is 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 which is separated into parts. This usually goes through an approval process by a local governmental unit, but in some cases may not require that process. The original plan is considered the "common plan of development or sale" whether phased or completed in steps. If a further plan is conceived that was not foreseen during the original plan, or the original plan is added onto but the addition was conceived later and was not included in any part of the original plan concept and/or development, and it develops after the completion of the construction of the entire original plan, it would be a separate "common plan of development or sale". More than one owner of developable land can purposely join together and develop a single common plan of development or sale, but without a determined effort and coordinated planning, land owned by different owners would not be considered part of a single common plan of development or sale. 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).

What is required in a permit?

This question is best answered by reading and becoming familiar with the UPDES Storm Water Permit for Construction Activities, commonly called the CGP. The CGP has many requirements, not all requirements may be applicable to all sites. Below is a short synopsis of what is required in the permit.

The objective of the CGP is to control and limit pollutants coming off a construction site so that the pollutants do not end up in a water body. Precipitation/storm events will mobilize pollutants at a construction site and carry the pollutants to a water body. The CGP has been developed with requirements for permittees to take steps to prevent pollutants from leaving the construction site and entering water bodies. Soil particulates are considered pollutants because, although soil particles naturally erode, construction activity exacerbates this process substantially. With soil erosion nutrients which are normally bound up in soil, are released. It is good and natural for nutrients to be in soil for plant growth, but if released to water bodies it causes degradation.

A storm water pollution prevention plan (commonly called a SWPPP) is the most significant requirement of the permit. The permit and the SWPPP template (found on the DWQ storm water web page at <https://deg.utah.gov/water-quality/general-construction-storm-water-updes-permits>) list the items that need to be addressed in the SWPPP.

Are buildings that will be used for agricultural purposes required to get coverage under a construction storm water permit?

Most people are aware that agricultural activities (earth disturbances) are not required to get construction storm water permits because its agricultural activities, not construction activity. When you are building a facility for agricultural purposes, although it will ultimately be used for agricultural purposes, it is construction activity. The construction of agricultural facilities must be permitted like all other construction activity.

## How does one get a Utah Construction Storm Water Permit?

A permit is obtained by submitting a notice of intent (NOI) to be covered under the UPDES General Storm Water Permit for construction Activity (CGP). Coverage begins when payment is processed and the permittee receives an Authorization to Discharge Form. An NOI can be submitted on-line at the web site for the Utah DEQ storm water data base. You can get to that web site by going to <https://deq.utah.gov/water-quality/updes-ereporting#construction>. If you have not created an account, click the 'Create New Account' button, otherwise click the "Login" button and enter your username and password. For assistance with Account Creation, the EPA has set up a hotline to assist users in setting up their account, they can be reached at (877) 227-8965.

After you have filled in all the required information and answered all the questions on the NOI form, the system will prompt you to move on to the certification screen, and then to the payment screen. The certification screen requires that either the owner or the operator sign the certification for both the owner and the operator. To do this whoever signs must have knowledge that the other party is in agreement with the conditions in the certification. On the payment screen you will be asked to pay the permit fee. The permit fee is a set fee that will cover construction activity for a year. If the project lasts more than a year the permittee will have an opportunity within 60 days of their coverage expiring to renew coverage under the same permit number. NOTE; your coverage is still expired and will be out of compliance until permit coverage is restored. The permit fee can be paid with a Visa, MasterCard, or e-check. After you have completed the NOI submission the program will allow you to print the NOI and permit number for your project. Permit coverage begins instantly after you complete the NOI and pay the fee. The permittee must keep a current copy of the NOI in the SWPPP that is signed by both parties.