

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

**Authorization to Discharge Under the
Utah Pollutant Discharge Elimination System (UPDES)**

**General Permit for Discharges from Small Municipal Separate
Storm Sewer Systems (MS4s)**

This Permit is issued in compliance with the provisions of the Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated 2004, as amended (the "Act") and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et. seq., as amended to date), and the rules and Regulations made pursuant to those statutes.

This Permit authorizes storm water discharges to Waters of the State of Utah resulting from a Small Municipal Separate Storm Sewer System (Small MS4) as provided in Part 1.0 of this Permit. This authorization is conditioned upon an operator of a Small MS4 meeting the eligibility requirements in Part 1.2 of this Permit prior to filing a Notice of Intent ("NOI") to discharge under this General Permit. An operator of a Small MS4 is not covered by this General Permit if the operator submits an NOI but has not met these conditions.

This authorization is subject to the authority of the Utah Water Quality Board or the *Division* of the Utah Water Quality Board to reopen this Permit (see Part 6.22 of Permit), or to require a discharger to obtain an individual Permit (see Part 6.15 of this Permit). The issuance of a discharge Permit authorization under this General Permit does not relieve Permittees of other duties and responsibilities under the Act or rules made under that Act. Significant terms used in this Permit are defined in Part 7.0 of this Permit.

This Modified Permit shall become effective on December 1, 2016.

This Modified Permit and the authorization to discharge shall expire at midnight, February 28, 2021, except as described in Part 6.3 of this Permit.

Signed this 30 day of November, 2016.


Walter L. Baker, P.E.
Director

**UPDES GENERAL PERMIT FOR DISCHARGES FROM
SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)**

TABLE OF CONTENTS

1.0	Coverage Under this Permit.....	4
1.1.	Authority to Discharge	4
1.2.	Permit Area and Eligibility	4
1.3.	Local Agency Authority	5
1.4.	Limitations on Coverage.....	5
2.0	Notice of Intent Requirements and Storm Water Management Program Description	6
2.1.	New Applicants,	6
2.2.	Contents of the Notice of Intent.....	7
2.3.	Storm Water Management Plan Description for Renewal Permittees.....	8
3.0	Special Conditions.....	9
3.1.	Discharges to Water Quality Impaired Waters	9
3.2.	Nutrient Reduction.....	9
3.3.	Co-Permittees	10
4.0	Storm Water Management Program.....	12
4.1.	Requirements	12
4.2.	Minimum Control Measures	14
4.3.	Sharing Responsibility.....	32
4.4.	Reviewing and Updating Storm Water Management Programs.....	32
5.0	Narrative Standard, Monitoring, Recordkeeping and Reporting	34
5.1.	Narrative Standard	34
5.2.	Analytical Monitoring	34
5.3.	Non-analytical Monitoring	34
5.4.	Record keeping	34
5.5.	Reporting	35
6.0	Standard Permit Conditions	36
6.1.	Duty to Comply	36
6.2.	Penalties for Violations of Permit Conditions	36
6.3.	Duty to Reapply	36
6.4.	Need to Halt or Reduce Activity not a Defense.....	36
6.5.	Duty to Mitigate.....	36
6.6.	Duty to Provide Information.....	36
6.7.	Other Information	37
6.8.	Signatory Requirements.....	37
6.9.	Availability of Reports	38
6.10.	Penalties for Falsification of Reports.....	38
6.11.	Penalties for Tampering.....	38
6.12.	Oil and Hazardous Substance Liability	38
6.13.	Property Rights	38

6.14.	Severability	38
6.15.	Requiring a Different Permit	38
6.16.	State/Federal Laws.....	39
6.17.	Proper Operation and Maintenance	39
6.18.	Monitoring and Records	39
6.19.	Monitoring Procedures	40
6.20.	Inspection and Entry	40
6.21.	Permit Actions	40
6.22.	Storm Water-Reopener Provision	40
7.0	Definitions	40

1.0 Coverage Under this Permit

1.1. Authority to Discharge

This General Permit authorizes the discharge, to Waters of the State of Utah, of storm water from a Small MS4 as that term is defined in R317-8-1.6(14) and Part 7.39. of this Permit. This authorization is subject to all of the terms and conditions of this Permit. This General Permit does not authorize discharges prohibited under Part 1.4. of this Permit.

1.2. Permit Area and Eligibility

1.2.1. This Permit covers all areas of the State of Utah except Indian Country (see Part 7.22. of this Permit for a definition of “Indian Country”).

1.2.1.1. No operator of a Small MS4 described in 40 CFR 122.32 may discharge from that system without authorization from the *Division*. (See Utah Administrative Code Section R317-8-3.9(1)(h)(1)(a), which sets forth the Permitting requirement, and R317-8-1.10(13), which incorporates 40 CFR 122.32 by reference.) Authorization to discharge under the terms and conditions of this Permit is granted if:

1.2.1.1.1 It applies to an operator of a Small MS4 within the State of Utah but not within Indian Country;

1.2.1.1.2 The operator is not a “large” or “medium” MS4 as defined in 40 CFR 122.26(b)(4) or (7);

1.2.1.1.3 The operator submits a Notice of Intent (NOI) in accordance with Part 2.0 of this Permit;

1.2.1.1.4 The MS4 is located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census;

1.2.1.1.5 The operator is ordered by the *Division* to obtain coverage under this Permit, as provided in the UPDES rules, R317-8.

1.2.2. The following are types of authorized discharges:

1.2.2.1. *Storm water discharges.* This Permit authorizes storm water discharges to waters of the State from the Small MS4s identified in 1.2.1., except as excluded in Part 1.4.

1.2.2.2. *Non-storm water discharges.* The following non-storm water discharges do not need to be addressed unless the Permittee or the *Division* identifies these discharges as significant sources of pollutants to Waters of the State or as causing or contributing to a violation of water quality standards:

- Water line flushing
- Landscape irrigation
- Diverted stream flows

- Rising ground waters
- Uncontaminated ground water infiltration
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering runoff
- Individual residential car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool discharges
- Residual street wash water
- Dechlorinated water reservoir discharges
- Discharges or flows from emergency firefighting activity

1.3. Local Agency Authority

This Permit does not pre-empt or supersede the authority of local agencies to prohibit, restrict, or control discharges to storm drain systems or other water courses within their jurisdiction.

1.4. Limitations on Coverage

This Permit does not authorize:

- 1.4.1. Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are in compliance with a separate UPDES Permit or are determined not to be a substantial contributor of pollutants to Waters of the State.
- 1.4.2. Storm water discharges associated with industrial activity as defined in *Utah Administrative Code (UAC) R317-8-3.9(6)(c)*.
- 1.4.3. Storm water discharges associated with construction activity as defined in *UAC R317-8-3.9(6)(d)(10)* and *R317-8-3.9(6)(d)(11)*.
- 1.4.4. Storm water discharges currently covered under another Permit.
- 1.4.5. Discharges that would cause or contribute to in-stream exceedances of water quality standards as contained in *UAC R317-2*.
- 1.4.6. Discharges of any pollutant into any Waters of the State for which a Total Maximum Daily Load (TMDL) has been approved by EPA unless the discharge is consistent with the TMDL. This consistency determination applies at the time a Notice of Intent is submitted. If conditions change after coverage is issued, the coverage may

remain active provided the conditions and requirements of Part 3.1. of this Permit are complied with.

2.0 Notice of Intent and Storm Water Management Program Requirements

2.1. The requirements of this Part apply only to Permittees **not** covered under the previous General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems, i.e. **New Applicants**. Permittees that were covered under the previous MS4 General Permit and have submitted a notice of intent (NOI) at least **180 days** prior to the expiration date of the previous Permit, are covered by this Permit and instead must follow the requirements of Part 2.3.

2.1.2. New applicants must meet the following application requirements. The Notice of Intent (NOI) must include submittal of the Storm Water Management Program (SWMP) document. Detailed information on SWMP requirements can be found in Part 4.0 of this Permit.

2.1.3. Within **180 days** of notification from the *Division*, the operator of the MS4 shall submit a NOI form as provided by the Division at <http://www.deq.utah.gov/Permits/water/updes/stormwatermun.htm>. (The *Division* retains the right to grant permission for a later submission date upon good cause shown). One original completed NOI shall be submitted, by mail or hand delivery to:

Attention: UPDES IES
Department of Environmental Quality
Division of Water Quality
195 North 1950 West
PO Box 144870
Salt Lake City, UT 84114-4870

2.1.4. Late submittal of an NOI is prohibited (unless permission has been granted by the *Division*). If a late NOI is submitted, authorization is only for discharges that occur after Permit coverage is granted. The *Division* reserves the right to take appropriate enforcement actions for any unpermitted discharges.

2.1.5. Where application is made by a new applicant that has assumed operational control of an MS4 for which coverage under this Permit was previously held by a separate entity, the Division may determine that the new applicant shall comply with the Permit requirements in this Permit, as directed for Renewal Permittees. Notification shall be made by the *Division* of this requirement in writing to the New Applicant prior to issuance of Permit coverage

2.1.6. Implementation of the Permittee's SWMP must include the six minimum control areas, including Measurable Goals, described in Part 4.2. Measurable Goals for each of the program areas must include, as appropriate, the year by which the Permittee will undertake required actions, including interim milestones and the frequency of the action if applicable.

- 2.1.7. Implementation of the Permittee's SWMP as described in the Permittee's application is required to begin within **30 days** after the completed application is submitted. The Permittee must fully develop and implement the SWMP as discussed in Part 4.0 of the Permit by the end of the Permit term unless a more restrictive timeframe is indicated.
- 2.1.8. If an Operator is designated by the Division as requiring Permit coverage later than one year after the effective date of this General Permit, the Division may approve alternative deadlines that would allow the Permittee to have its program areas implemented.

2.2. **Contents of the Notice of Intent**

The Notice of Intent requires, at a minimum, the following information:

- 2.2.1. Name, address, and telephone number of the principal executive officer, ranking elected official or other duly authorized employee in charge of municipal resources used for implementation of the SWMP;
- 2.2.2. Name(s)/ identification of Waters of the State as defined by UAC R317-1-1.32 that receive discharges from the Permittee's MS4;
- 2.2.3. Name of the person responsible for overseeing implementation and coordination of the SWMP;
- 2.2.4. Summary description of the overall water quality concerns, priorities, and measurable goals specific to the Permittee that were considered in the development of the SWMP;
- 2.2.5. The SWMP document shall consist of, at a minimum, a description of the program elements that will be implemented (or already exist) for each of the SWMP minimum control measures. The plan must be detailed enough for the Division to determine the Permittee's general strategy for complying with the required items in each of the six minimum control measures in the SWMP document (see Part 4.2 of this Permit);
- 2.2.6. Information on the chosen Best Management Practices (BMPs) and the measurable goals for each of the storm water minimum control measures in Part 4.2 of this Permit and, as appropriate, the timeframe by which the Permittee will achieve required actions, including interim milestones;
- 2.2.7. Permittees which are applying as Co-Permittees shall each submit an NOI and individual SWMP document which will clearly identify the areas of the MS4 for which each of the Co-Permittees are responsible. Permittees which are relying on another entity (ies) to satisfy one or more of their Permit obligations shall include with the NOI, a summary of the Permit obligations that will be carried out by the other entity (ies). During the term of the Permit, Permittees may terminate or amend shared responsibility arrangements by notifying the *Division*, provided this does not alter implementation deadlines.
- 2.2.8. Certification and signature requirements in accordance with Part 6.8.

2.3. Storm Water Management Program Plan Description for Renewal Permittees

- 2.3.1. The requirements of this part apply only to **Renewal Permittees** that were previously covered under the last MS4 General Permit. New applicants are not required to meet the requirements of this Part and instead must follow the requirements of Part 2.0.
- 2.3.2. Renewal Permittees must submit a **revised SWMP document** to the Division within **120 days** of the effective date of this Permit, which includes at a minimum, the following information:
 - 2.3.2.1. Permit number;
 - 2.3.2.2. MS4 location description and map;
 - 2.3.2.3. Information regarding the overall water quality concerns, priorities, measurable goals, and interim milestones specific to the Permittee that were considered in the development and/or revisions to the SWMP document;
 - 2.3.2.4. A description of the program elements that will be implemented (or are already being implemented) in each of the six minimum control measures (see Part 4.0);
 - 2.3.2.5. A description of any modifications to ordinances or long-term/ongoing processes implemented in accordance with the previous MS4 General Permit for each of the six minimum control measures;
 - 2.3.2.6. A description of how the Permittee intends to meet the requirements of the Permit as described in Part 4.0 by either referencing existing program areas that already meet the Permit requirements or a description and relevant measurable goals that include, as appropriate, the year by which the Permittee will achieve required actions, including interim milestones.
 - 2.3.2.7. Indicate the joint submittal (s) of Co-Permittees (if applicable) and the associated responsibility (ies) in meeting requirements of the SWMP.
 - 2.3.2.8. Certification and signature requirements in accordance with Part 6.8.
 - 2.3.2.9. The revised SWMP document must contain specific details for complying with the required items in each of the six minimum control measures contained within the SWMP document (See Part 4.2.).

3.0 Special Conditions

3.1. Discharges to Water Quality Impaired Waters

- 3.1.1. Applicability: Permittees must:
- 3.1.1.1. Determine whether storm water discharge from any part of the MS4 contributes to a 303(d) listed (i.e., impaired) waterbody. A 303(d) list of impaired waterbodies is available at:
<http://www.deq.utah.gov/ProgramsServices/programs/water/wqmanagement/assessment/PreviousIR.htm>. Water quality impaired waters means any segment of surface waters that has been identified by the Division as failing to support classified uses. If the Permittee has discharges meeting these criteria, the Permittee must comply with Part 3.1.2. below and if no such discharges exist, the remainder of this Part 3.1 does not apply.
- 3.1.1.2. If the Permittee has “303(d)” discharges described above, the Permittee must also determine whether a Total Maximum Daily Load (TMDL) has been developed by the Division and approved by EPA for the listed waterbody. If there is an approved TMDL, the Permittee must comply with all requirements associated with the TMDL as well as the requirements of Part 3.1.2. below and if no TMDL has been approved, the Permittee must comply with Part 3.1.2. below and any TMDL requirements once it has been approved.
- 3.1.2. Water Quality Controls for Discharges to Impaired Waterbodies. If the Permittee discharges to an impaired waterbody, the Permittee must include in its SWMP document a description of how the Permittee will control the discharge of the pollutants of concern. This description must identify the measures and BMPs that will collectively control the discharge of the pollutants of concern. The measures should be presented in the order of priority with respect to controlling the pollutants of concern.
- 3.1.3. Where a discharge is already authorized under this Permit and is later determined to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard, the Division will notify the Permittee of such violation(s). The Permittee must take all necessary actions to ensure future discharges do not cause or contribute to the violation of a water quality standard and document these actions as required by the Division. If violations remain or re-occur, coverage under this Permit may be terminated by the Division and an alternative General Permit or individual Permit may be issued. Compliance with this requirement does not preclude any enforcement activity as provided by the Utah Water Quality Act for the underlying violation.

3.2. Nitrogen and Phosphorus Reduction

- 3.2.1. As part of the Permittee's Storm Water Management Program (SWMP), all Permittees must specifically address the reduction of water quality impacts associated with nitrogen and phosphorus in discharges from the MS4.
- 3.2.1.1. The Permittee can meet the requirements of this section through contribution to a collaborative program (e.g., storm water coalitions) to evaluate, identify, target, and provide outreach that addresses sources State-wide or within a specific region or watershed.
- 3.2.1.2. The Permittee must determine and target sources (e.g., residential, industrial, agricultural, or commercial) that are contributing to, or have the potential to contribute, nitrogen and phosphorus to the waters receiving the discharge authorized under this Permit.
- 3.2.1.3. The Permittee must prioritize which targeted sources are likely to obtain a reduction in nitrogen and phosphorus discharges through education. The Permittee must distribute educational materials or equivalent outreach to the prioritized targeted sources. Educational materials or equivalent outreach must describe storm water quality impacts associated with nitrogen and phosphorus in storm water runoff and illicit discharges, the behaviors of concern, and actions that the target source can take to reduce nitrogen and phosphorus. The Permittee may incorporate the education and outreach to meet this requirement into the education and outreach strategies provided in accordance with Permit Part 4.2.1.

3.3. Co-Permittees

- 3.3.1. Two or more operators of interrelated or neighboring Small MS4s may apply as Co-Permittees.
- 3.3.2. In order to be Permitted as Co-Permittees, the MS4(s) must each submit an NOI complete with BMP measurable goals and implementation milestones. Each description of the MS4(s) Storm Water Management Program Plan(s) must clearly describe which Permittees are responsible for implementing each of the control measures.
- 3.3.3. Each Co-Permittee is individually liable for:
 - 3.3.3.1. Permit compliance for discharges from portions of the MS4 where it is the operator and for areas within its legal jurisdiction;
 - 3.3.3.2. Ensuring that the six minimum control measures described in Part 4.2 are implemented for portions of the MS4 where it is the operator and in areas within its legal jurisdiction; and
 - 3.3.3.3. If any Permit conditions are established for specific portions of the MS4, Co-Permittees need only comply with the Permit conditions relating to those portions of the MS4 for which they are the operator.

- 3.3.4. Each Co-Permittee is jointly liable for compliance with annual reporting requirements listed in Part 5.5, except that a Co-Permittee is individually liable for any parts of the annual report that relate exclusively to portions of the MS4 where it is the operator.
- 3.3.5. Specific Co-Permittees are jointly liable for Permit compliance on portions of the MS4 as follows:
 - 3.3.5.1. Where operational or storm water management program implementation authority over portions of the MS4 has been transferred from one Co-Permittee to another in accordance with legally binding interagency agreements, both the owner and the operator may be jointly liable for Permit compliance on those portions of the MS4; and;
 - 3.3.5.2. Where one or more Co-Permittees jointly own or operate a portion of the MS4, each owner/operator is jointly liable for compliance with Permit conditions on the shared portion of the MS4.

4.0 Storm Water Management Program

Permittees covered under the previous General Permit for Storm Water Discharges from Small Municipal Separate Storm Sewer Systems, i.e. **Renewal Permittees**, are expected to have fully implemented all of the following six minimum control measures as required in the previous Permit term. Permittees that were newly designated during the previous Permit term have 5 years from the date of their submitted NOI to develop, fully implement and enforce their Storm Water Management Program (SWMP). A Renewal Permittee must continue to implement its SWMP designed to reduce the discharge of pollutants from the MS4 as described in the application and submittals provided in accordance with the previous MS4 General Permit, while updating its SWMP document pursuant to this Permit. This Permit does not extend the compliance deadlines set forth in the previous MS4 General Permit unless specifically noted. All requirements contained in this renewal Permit are effective immediately unless an alternative timeframe is indicated.

4.1. Requirements

- 4.1.1. All Permittees must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the MS4, protect water quality, and satisfy the appropriate water quality requirements of the *Utah Water Quality Act*. The SWMP must include the six minimum control measures described in Part 4.2 of this Permit.
 - 4.1.1.1. The SWMP shall be developed and implemented in accordance with the schedules contained in Part 4.0. of this Permit.
- 4.1.2. Each Permittee shall have an ongoing documentation process for gathering, maintaining, and using information to conduct planning, set priorities, track the development and implementation of the SWMP, evaluate Permit compliance/non-compliance, and evaluate the effectiveness of the SWMP implementation.
 - 4.1.2.1. Each Permittee shall track the number of inspections performed, official enforcement actions taken, and types of public education activities implemented as required for each SWMP component. This information shall be provided to the Division upon request and used by the Division to determine compliance with this Permit.
 - 4.1.2.2. Each Permittee must secure the resources necessary to meet all requirements of this permit. Each Permittee must conduct an annual analysis of the capital and operation and maintenance expenditures needed, allocated, and spent as well as the necessary staff resources needed and allocated to meet the requirements of this permit, including any development, implementation, and enforcement activities required. Each permittee must submit a summary of its fiscal analysis with each annual report.
- 4.1.3. The SWMP document shall include BMPs that the Permittee or another entity will implement for each of the storm water minimum control measures.
 - 4.1.3.1. The measurable goals for each of the BMPs shall include, as appropriate, the months and years in which the Permittee will undertake required actions, including interim milestones and the frequency of the actions.

- 4.1.3.2. The SWMP document shall indicate the person or persons responsible for implementing or coordinating the BMPs contained within the SWMP document.
- 4.1.3.3. The revised SWMP document shall clearly identify the roles and responsibilities of all offices, departments, divisions, or sub-sections and if necessary other responsible entities and it shall include any necessary agreements, contracts, or memorandum of understanding (MOUs) between said entities that affect the implementation and operation of the SWMP. Necessary agreements, contracts, and MOUs shall deal with coordination or clarification of the responsibilities associated with the detection and elimination of improper connections or illicit discharges to the MS4, BMP coordination or other coordinated programs or sensitive issues of unclear or overlapping responsibility. Such agreements, contracts, and MOUs shall be retained by the Permittee as required by the SWMP document.

4.2. **Minimum Control Measures**

The six minimum control measures that must be included in the storm water management program are:

4.2.1. ***Public Education and Outreach on Storm Water Impacts***

The Permittee must implement a public education and outreach program to promote behavior change by the public to reduce water quality impacts associated with pollutants in storm water runoff and illicit discharges. Outreach and educational efforts shall include a multimedia approach and shall be targeted and presented to specific audiences for increased effectiveness. The educational program must include documented education and outreach efforts for the following four audiences: (1) residents, (2) institutions, industrial and commercial facilities, (3) developers and contractors (construction), and (4) MS4-owned or operated facilities. The minimum performance measures which should be based on the land uses and target audiences found within the community include:

- 4.2.1.1. Target specific pollutants and pollutant sources determined by the Permittee to be impacting, or have the potential to impact, the beneficial uses of receiving water. This includes providing information which describe the potential impacts from storm water discharges; methods for avoiding, minimizing, reducing and /or eliminating the adverse impacts of storm water discharges; and the actions individuals can take to improve water quality, including encouraging participation in local environmental stewardship activities, based on the land uses and target audiences found within the community;
- 4.2.1.2. Provide and document information given to the general public of the Permittee's prohibitions against and the water quality impacts associated with illicit discharges and improper disposal of waste. The Permittee must at a minimum consider the following topics. These topics are not inclusive and the Permittee must focus on those topics most relevant to the community: maintenance of septic systems; effects of outdoor activities such as lawn care (use of pesticides, herbicides, and fertilizers); benefits of on-site infiltration of storm water; effects of automotive work and car washing on water quality; proper disposal of swimming pool water; and proper management of pet waste.
- 4.2.1.3. Provide and document information given to institutions, industrial, and commercial facilities on an annual basis of the Permittee's prohibition against and the water quality impacts associated with illicit discharges and improper disposal of waste. The Permittee must at a minimum consider the following topics. These topics are not inclusive and the Permittee must focus on those topics most relevant to the community: proper lawn maintenance (use of pesticides, herbicides and fertilizer); benefits of appropriate on-site infiltration of storm water; building and equipment maintenance (proper management of waste water); use of salt or other deicing materials (cover/prevent runoff to storm system and contamination to ground water); proper storage of materials (emphasize pollution prevention); proper management of waste materials and dumpsters (cover and pollution prevention); and proper management of parking lot surfaces (sweeping). This education can also be a part of the Illicit Discharge Detection and Elimination measure detailed in Part 4.2.3.

- 4.2.1.4. Provide and document information given to engineers, construction contractors, developers, development review staff, and land use planners concerning the development of storm water pollution prevention plans (SWPPPs) and BMPs for reducing adverse impacts from storm water runoff from development sites. This education can also be a part of the Construction Site Storm Water Runoff minimum control measure detailed in Part 4.2.4.
- 4.2.1.5. Provide and document information and training given to employees of Permittee-owned or operated facilities concerning the Permittee's prohibition against and the water quality impacts associated with illicit discharges and improper disposal of waste. The Permittee must at a minimum consider the following topics: equipment inspection to ensure timely maintenance; proper storage of industrial materials (emphasize pollution prevention); proper management and disposal of wastes; proper management of dumpsters; minimization of use of salt and other de-icing materials (cover/prevent runoff to MS4 and ground water contamination); benefits of appropriate on-site infiltration (areas with low exposure to industrial materials such as roofs or employee parking); and proper maintenance of parking lot surfaces (sweeping).
- 4.2.1.6. Provide and document information and training given to MS4 engineers, development and plan review staff, land use planners, and other parties as applicable to learn about Low Impact Development (LID) practices, green infrastructure practices, and to communicate the specific requirements for post-construction control and the associated Best Management Practices (BMPs) chosen within the SWMP.
- 4.2.1.7. An effective program must show evidence of focused messages and audiences as well as demonstration that the defined goal of the program has been achieved. The Permittee must define the specific messages for each audience. The Permittee must identify methods that will be used to evaluate the effectiveness of the educational messages and the overall education program. Any methods used to evaluate the effectiveness of the program must be tied to the defined goals of the program and the overall objective of changes in behavior and knowledge.
- 4.2.1.8. The Permittee must include written documentation or rationale as to why particular BMPs were chosen for its public education and outreach program.

4.2.2. Public Involvement/Participation

The Permittee must implement a program that complies with applicable State and Local public notice requirements. The SWMP shall include ongoing opportunities for public involvement and participation such as advisory panels, public hearings, watershed committees, stewardship programs, environmental activities, other volunteer opportunities, or other similar activities. The Permittee should involve potentially affected stakeholder groups, which include but is not limited to, commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and education organizations. The minimum performance measures are:

- 4.2.2.1. Permittees shall adopt a program or policy directive to create opportunities for the public to provide input during the decision making processes involving the development, implementation and update of the SWMP document including development and adoption of all required ordinances or regulatory mechanisms.
- 4.2.2.2. Renewal Permittees shall make the revised SWMP document available to the public for review and input within **120** days from the effective date of this Permit. New Applicants shall make the SWMP document available to the public for review and input within **180** days of receiving notification from the *Division* of the requirement for Permit coverage.
- 4.2.2.3. A current version of the SWMP document shall remain available for public review and input for the life of the Permit. If the Permittee maintains a website, the latest version of the SWMP document shall be posted on the website within **120 days** from the effective date of this Permit and shall clearly denote a specific contact person and phone number or email address to allow the public to review and provide input for the life of the Permit.
- 4.2.2.4. The Permittee must at a minimum comply with State and Local public notice requirements when implementing a public involvement/participation program.

4.2.3. Illicit Discharge Detection and Elimination (IDDE)

All Permittees shall revise as necessary, implement and enforce an IDDE program to systematically find and eliminate sources of non-storm water discharges from the MS4 and to implement defined procedures to prevent illicit connections and discharges according to the minimum performance measures listed below. The IDDE program must be described in writing, incorporated as part of the Permittee's SWMP document, and contain the elements detailed in this part of the Permit. The minimum performance measures are:

- 4.2.3.1. Maintain a current storm sewer system map of the MS4, showing the location of all municipal storm sewer outfalls with the names and location of all State waters that receive discharges from those outfalls, storm drain pipe and other storm water conveyance structures within the MS4.
- 4.2.3.2. Effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges to the MS4, including spills, illicit connections, illegal dumping and

sanitary sewer overflows (“SSOs”) into the storm sewer system, require removal of such discharges consistent with Part 4.2.3.6. of this Permit, and implement appropriate enforcement procedures and actions. The Permittee must have a variety of enforcement options in order to apply escalating enforcement procedures as necessary for the severity of violation and/or the recalcitrance of the violator. Exceptions are discharges pursuant to a separate UPDES Permit (other than the UPDES Permit for discharges from the MS4) and non-storm water discharges listed in Part 1.2.2.2.

- 4.2.3.2.1 The IDDE program must have adequate legal authority to detect, investigate, eliminate and enforce against non-storm water discharges, including illegal dumping, into the MS4. Adequate legal authority consists of an effective ordinance, by-law, or other regulatory mechanism. The documented IDDE program that is included in the Permittee’s SWMP must include a reference or citation of the authority the Permittee will use to implement all aspects of the IDDE program.
- 4.2.3.3. Implement a written plan to detect and address non-storm water discharges to the MS4, including spills, illicit connections, sanitary sewer overflows and illegal dumping. The plan shall include:
- 4.2.3.3.1 Written systematic procedures for locating and listing the following priority areas likely to have illicit discharges (if applicable to the jurisdiction):
- Areas with older infrastructure that are more likely to have illicit connections;
 - Industrial, commercial, or mixed use areas;
 - Areas with a history of past illicit discharges;
 - Areas with a history of illegal dumping;
 - Areas with onsite sewage disposal systems;
 - Areas with older sewer lines or with a history of sewer overflows or cross-connections;
 - Areas upstream of sensitive waterbodies; and,
 - Other areas the Permittee determines to be likely to have illicit discharges.

The Permittee must document the basis for its selection of each priority area and create a list of all priority areas identified in the system. This priority area list must be updated annually to reflect changing priorities.

- 4.2.3.3.2 Field inspections of areas which are considered a priority area as identified in Permit Part 4.2.3.3.1. Compliance with this provision shall be achieved by inspecting each priority area annually at a minimum. All field assessment activities shall utilize an inspection form to document findings.
- 4.2.3.3.3 Dry weather screening (See Definition 7.13) activities for the purpose of verifying outfall locations and detecting illicit discharges that discharge within the Permittee’s jurisdiction to a receiving water. All outfalls shall be inspected at least once during the 5-year Permit term. Dry weather screening activities shall utilize an inspection form to document findings.

- 4.2.3.3.4 If the Permittee discovers or suspects that a discharger may need a separate UPDES Permit (e.g., Industrial Storm Water Permit, Dewatering Permit), the Permittee shall notify the Division.
- 4.2.3.4. Implement standard operating procedures (SOPs) or similar type of documents for tracing the source of an illicit discharge; including visual inspections, and when necessary, opening manholes, using mobile cameras, using field tests of selected chemical parameters as indicators of discharge sources, collecting and analyzing water samples for the purpose of determining sanctions or penalties, and/or other detailed inspection procedures.
- 4.2.3.5. Implement standard operating procedures (SOPs) or similar type of documents for characterizing the nature of, and the potential public or environmental threat posed by, any illicit discharges found by or reported to the Permittee by the hotline or other telephone number described in 4.2.3.9. These procedures shall include detailed instructions for evaluating how the discharge shall be immediately contained and steps to be taken for containment of the discharge. Compliance with this provision will be achieved by initiating an investigation immediately upon being alerted of a potential illicit discharge.
- 4.2.3.5.1 When the source of a non-storm water discharge is identified and confirmed, the Permittee must record the following information in an inspection report: the date the Permittee became aware of the non-storm water discharge, the date the Permittee initiated an investigation of the discharge, the date the discharge was observed, the location of the discharge, a description of the discharge, the method of discovery, date of removal, repair, or enforcement action; date, and method of removal verification. Analytical monitoring may be necessary to aid in the identification of potential sources of an illicit discharge and to characterize the nature of the illicit discharge. The decision process for utilizing analytical monitoring must be fully documented in the inspection report.
- 4.2.3.6. Implement standard operating procedures (SOPs) or similar type of documents for ceasing the illicit discharge, including notification of appropriate authorities; notification of the property owner; technical assistance for removing the source of the discharge or otherwise eliminating the discharge; follow-up inspections; and escalating enforcement and legal actions if the discharge is not eliminated. Illicit discharges to the MS4 are prohibited and any such discharges violate this Permit and remain in violation until they are eliminated. Upon detection, the Permittee shall require immediate cessation of improper disposal practices upon confirmation of responsible parties in accordance with its enforceable legal authorities established pursuant to Part 4.2.3.2.1. of this Permit.
- 4.2.3.6.1 All IDDE investigations must be thoroughly documented and may be requested at any time by the *Division*. If a Permittee is unable to meet the minimum performance measures outlined in Parts 4.2.3.5. or 4.2.3.6., the Permittee must immediately submit to the *Division* written documentation or rationale describing the circumstances why compliance with the minimum performance measures was not possible. All IDDE documentation shall be retained by the Permittee as required by the SWMP document.

- 4.2.3.7. Permittees shall inform public employees, businesses, and the general public of hazards associated with illicit discharges and improper disposal of waste.
- 4.2.3.8. Permittees shall promote or provide services for the collection of household hazardous waste.
- 4.2.3.9. Permittees shall publicly list and publicize a hotline or other local telephone number for public reporting of spills and other illicit discharges. A written record shall be kept of all calls received, all follow-up actions taken, and any feedback received from public education efforts.
- 4.2.3.9.1 The Permittee must develop a written spill/dumping response procedure, and a flow chart for internal use, that shows the procedures for responding to public referrals of illicit discharges, the various responsible agencies and their contacts, and who would be involved in illicit discharge incidence response, even if it is a different entity other than the Permittee. The procedure and list must be incorporated as part of the IDDE program and incorporated into the Permittee's SWMP document. The list must be maintained and updated as changes occur.
- 4.2.3.10. Permittees shall implement procedures for program evaluation and assessment which includes maintaining a database for mapping, tracking of the number and type of spills or illicit discharges identified; and inspections conducted.
- 4.2.3.11. Permittees shall at a minimum, ensure that all staff, contracted staff, or other responsible entities receives annual training in the IDDE program including identification, investigation, termination, cleanup, and reporting of illicit discharges including spills, improper disposal, and illicit connections. All Permittees shall ensure that all new hires are trained immediately upon hire and annually thereafter, at a minimum. Follow-up training shall be provided as needed to address changes in procedures, methods or staffing. The Permittee shall provide training to all field staff that as part of their normal job responsibilities might come into contact with or otherwise observe an illicit discharge or illicit connection to the MS4. The Permittee shall also train office personnel who might receive initial reports of illicit discharges. Training shall include how to identify a spill, an improper disposal, or an illicit connection to the MS4 and proper procedures for reporting the illicit discharge. Training records must be kept and shall include dates, activities or course descriptions, and names and positions of staff in attendance. The Permittee shall include a summary of such training in the annual report.
- 4.2.3.12. The Division reserves the right to request documentation or further study of a particular non-storm water discharge of concern, to require a reasonable basis for allowing the non-storm water discharge and excluding the discharge from the Permittee's program, and to require inclusion of the discharge in the Permittee's program, if water quality concerns cannot otherwise be reasonably satisfied.

4.2.4. *Construction Site Storm Water Runoff Control*

All Permittees shall revise as necessary, implement and enforce a program to reduce pollutants in any storm water runoff to the MS4 from construction sites with a land disturbance of greater than or equal to one acre, including projects less than one acre

that are part of a larger common plan of development or sale according to the minimum performance measures listed below. Public and private projects, including projects proposed by the Permittee's own departments and agencies, shall comply with these requirements. The minimum performance measures are:

- 4.2.4.1. Revise as necessary and enforce an ordinance or other regulatory mechanism that requires the use of erosion and sediment control practices at construction sites. The ordinance or other regulatory mechanism shall, at a minimum, be equivalent with the requirements set forth in the most current UPDES Storm Water General Permits for Construction activities which can be found at <http://www.deq.utah.gov/Permits/water/updes/stormwatercon.htm>. The ordinance or other regulatory mechanism shall include sanctions to ensure compliance. The ordinance or other regulatory mechanism shall apply, at a minimum, to construction projects disturbing greater than or equal to one acre and to construction projects of less than one acre that are part of a larger common plan of development or sale. Existing local requirements to apply storm water controls at sites less than 1 acre or not part of a Common Plan of Development may be retained.
 - 4.2.4.1.1 The ordinance or other regulatory mechanism shall, at a minimum, require construction operators to prepare a Storm Water Pollution Prevention Plan (SWPPP) and apply sediment and erosion control BMPs as necessary to protect water quality, reduce the discharge of pollutants, and control waste such as, but not limited to, discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site that may cause adverse impacts to water quality. The SWPPP requirements must be, at a minimum, equivalent with the SWPPP requirement set forth in the most current UPDES Storm Water General Permits for Construction Activities, which can be found at: <http://www.deq.utah.gov/Permits/water/updes/stormwatercon.htm>.
 - 4.2.4.1.2 Permittees shall ensure construction operators obtain and maintain coverage under the current UPDES Storm Water General Permits for Construction Activities for the duration of the project. Coverage can be obtained by completing a NOI as well as renewed online at https://secure.utah.gov/account/login.html?returnToUrl=https%3A//secure.utah.gov/stormwater/ui_authentication.
 - 4.2.4.1.3 The ordinance shall include a provision for access by qualified personnel to inspect construction storm water BMPs on private properties that discharge to the MS4.
- 4.2.4.2. Develop a written enforcement strategy and implement the enforcement provisions of the ordinance or other regulatory mechanism which shall include:
 - 4.2.4.2.1 Standard operating procedures (SOPs) or similar type of documents that include specific processes and sanctions to minimize the occurrence of, and obtain compliance from violators which shall include appropriate, escalating enforcement procedures and actions.
 - 4.2.4.2.2 Documentation and tracking of all enforcement actions.
 - 4.2.4.3. Develop and implement SOPs or similar type of documents for pre-construction Storm Water Pollution Prevention Plan (SWPPP) review and keep records for, at a

minimum, all construction sites that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, to ensure plans are complete and in compliance with State and Local regulations. Permittees shall keep records of these projects for five years or until construction is completed, whichever is longer. Prior to construction, the Permittee shall:

- 4.2.4.3.1 Conduct a pre-construction SWPPP review which includes a review of the site design, the planned operations at the construction site, planned BMPs during the construction phase, and the planned BMPs to be used to manage runoff created after development.
- 4.2.4.3.2 Incorporate into the SWPPP review procedures the consideration of potential water quality impacts and procedures for pre-construction review which shall include the use of a checklist.
- 4.2.4.3.3 Identify priority construction sites considering the following factors at a minimum:
 - Soil erosion potential;
 - Site slope;
 - Project size and type;
 - Sensitivity of receiving waterbodies;
 - Proximity to receiving waterbodies; and,
 - Non-storm water discharges and past record of non-compliance by the operators of the construction site.
- 4.2.4.4. All Permittees shall develop and implement SOPs or similar type of documents for construction site inspection and enforcement of construction storm water pollution control measures. The procedures must clearly define who is responsible for site inspections as well as who has authority to implement enforcement procedures. The Permittee must have the authority to the extent authorized by law to impose sanctions to ensure compliance with the local program. These procedures and regulatory authorities must be written and documented in the SWMP. The construction site storm water runoff control inspection program must provide:
 - 4.2.4.4.1 Inspections of all new construction sites with a land disturbance of greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale at least monthly by qualified personnel using the Construction Storm Water Inspection Form (Checklist) found on the Division's website at <http://www.deq.utah.gov/Permits/water/updes/stormwatermun.htm>.
 - 4.2.4.4.2 The Permittee must inspect all phases of construction: prior to land disturbance, during active construction, and following active construction. The Permittee must document in its SWMP the procedure for being notified by construction operators/owners of their completion of active construction so that verification of final stabilization and removal of all temporary control measures may be conducted. This procedure must be provided to the construction operator/owner before active construction begins.
 - 4.2.4.4.3 Inspections by the MS4 of priority construction sites defined in Part 7.36. must be conducted at least biweekly (every two weeks) using the Construction Storm Water

Inspection Form (Checklist) found on the Division's website at
<http://www.deq.utah.gov/Permits/water/updes/stormwatermun.htm>.

- 4.2.4.4.4 Based on site inspection findings, the permittee must take all necessary follow-up actions (i.e., reinspection, enforcement) to ensure compliance in accordance with the permittee's enforcement strategy. These follow-up and enforcement actions must be tracked and documented.
- 4.2.4.4.5 Permittees shall publicly provide and publicize a hotline or other local telephone number for public reporting of storm water related issues on construction sites, such as tracking onto streets. Records of violations, enforcement actions and corrective actions taken shall be tracked and documented.
- 4.2.4.5 The Permittee must ensure that all staff whose primary job duties are related to implementing the construction storm water program, including permitting, plan review, construction site inspections, and enforcement, are annually trained to conduct these activities. The training can be conducted by the MS4 or outside training can be attended. Such training must extend to third-party inspectors and plan reviewers as well. The Permittee shall ensure that all new hires are trained upon hire and before commencing storm water related duties and annually thereafter, at a minimum. Follow-up training shall be provided as needed to address changes in procedures, methods or staffing. The training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance.
- 4.2.4.6. All Permittees shall implement a procedure to maintain records of all projects disturbing greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. Permittees shall keep records which include but are not limited to, site plan reviews, SWPPPs, inspections and enforcement actions including verbal warnings, stop work orders, warning letters, notices of violation, and other enforcement records. Permittees shall keep records of these projects for five years or until construction is completed, whichever is longer.

4.2.5. *Long-Term Storm Water Management in New Development and Redevelopment (Post-Construction Storm Water Management)*

All Permittees shall revise as necessary, implement and enforce a program to address post-construction storm water runoff to the MS4 from new development and redevelopment construction sites disturbing greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, according to the minimum performance measures listed below. The objective of this control measure is for the hydrology associated with new development to mirror the pre-development hydrology of the previously undeveloped site or to improve the hydrology of a redeveloped site and reduce the discharge of storm water. The water quality considerations of this minimum control measure do not replace or substitute for water quantity or flood management requirements implemented on the local level for new developments. The water quality controls may be incorporated into the design of structures intended for flow control; or water quality control may be achieved with separate control measures. The program must apply to private and public development sites, including roads.

The minimum performance measures are:

- 4.2.5.1. Develop and adopt an ordinance or other regulatory mechanism that requires long-term post-construction storm water controls at new development and redevelopment sites. The ordinance or other regulatory mechanism shall apply, at a minimum, to new development and redevelopment sites that discharge to the MS4 and that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. Existing local requirements to apply storm water controls at smaller sites shall be retained. The ordinance or other regulatory mechanism shall require BMP selection, design, installation, operation and maintenance standards necessary to protect water quality and reduce the discharge of pollutants to the MS4.
- 4.2.5.2. Implement an enforcement strategy and implement the enforcement provisions of the ordinance or other regulatory mechanism. Procedures for enforcement of BMPs include:
 - 4.2.5.2.1 Procedures that include specific processes and sanctions to minimize the occurrence of, and obtain compliance from, chronic and recalcitrant violators which shall include appropriate, escalating enforcement procedures and actions.
 - 4.2.5.2.2 Documentation on how the requirements of the ordinance or other regulatory mechanism will protect water quality and reduce the discharge of pollutants to the MS4. Documentation shall include:
 - How long-term storm water BMPs were selected;
 - The pollutant removal expected from the selected BMPs; and
 - The technical basis which supports the performance claims for the selected BMPs.
- 4.2.5.3. The Permittee's new development/redevelopment program must have requirements or standards to ensure that any storm water controls or management practices for new development and redevelopment will prevent or minimize impacts to water quality. BMPs must be selected that address pollutants known to be discharged or anticipated to be discharged from the site.
 - 4.2.5.3.1 The Permittee's new development/redevelopment program shall include non-structural BMPs such as requirements and standards to minimize development in areas susceptible to erosion and sediment loss; to minimize the disturbance of native soils and vegetation; to preserve areas in the municipality that provide important water quality benefits; to implement measures for flood control; and to protect the integrity of natural resources and sensitive areas.
 - 4.2.5.3.2 For new development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, the program shall include a process to evaluate and encourage a Low Impact Development (LID) approach which promotes the implementation of BMPs that infiltrate, evapotranspire or harvest and use storm water from the site to protect water quality. **By March 1, 2019**, the program shall

include a process which *requires* the evaluation of an LID approach for new development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. Structural controls may include green infrastructure practices such as rainwater harvesting, rain gardens, permeable pavement, and vegetated swales. If an LID approach cannot be utilized, the Permittee must document an explanation of the reasons preventing this approach and the rationale *for the chosen alternative controls* on a case by case basis for each project.

Since 2010, rainwater harvesting is legal in the State of Utah. Depending on the volume of rainwater collected and stored for beneficial use, the Permittee must meet the requirements of the Utah Division of Water Rights to harvest rainwater found on their website: <http://waterrights.utah.gov/forms/rainwater.asp>

- 4.2.5.3.3 The Permittee must develop a plan to retrofit existing developed sites that are adversely impacting water quality. The retrofit plan must be developed to emphasize controls that infiltrate, evapotranspire or harvest and use storm water discharges. The plan must include a ranking of control measures to determine those best suited for retrofitting as well as those that could later be considered for retrofitting. The Permittee must include the following when developing the criteria for the retrofit plan:
- Proximity to waterbody
 - Status of waterbody to improve impaired waterbodies and protect unimpaired waterbodies
 - Hydrologic condition of the receiving waterbody
 - Proximity to sensitive ecosystem or protected area
 - Any upcoming sites that could be further enhanced by retrofitting storm water controls
- 4.2.5.3.4 Each Permittee shall develop and define specific hydrologic method or methods for calculating runoff volumes and flow rates to ensure consistent sizing of structural BMPs in their jurisdiction and to facilitate plan review. **By March 1, 2019**, new development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale must manage rainfall on-site, and prevent the off-site discharge of the precipitation from all rainfall events less than or equal to the 90th percentile rainfall event. This objective must be accomplished by the use of practices that are designed, constructed, and maintained to infiltrate, evapotranspire and/or harvest and reuse rainwater. The 90th percentile rainfall event is the event whose precipitation total is greater than or equal to 90 percent of all storm events over a given period of record. If meeting this retention standard is technically infeasible, a rationale shall be provided on a case by case basis for the use of alternative design criteria. The project must document and quantify that infiltration, evapotranspiration and rainwater harvesting have been used to the maximum extent technically feasible and that full employment of these control are infeasible due to site constraints.
- 4.2.5.4. All Permittees shall adopt and implement procedures for site plan review which evaluate water quality impacts. The procedures shall apply through the life of the

project from conceptual design to project closeout. Prior to construction, Permittees shall:

- 4.2.5.4.1 Review post-construction plans for, at a minimum, all new development and redevelopment sites that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, to ensure that the plans include long-term storm water management measures that meet the requirements of this minimum control measure.
- 4.2.5.4.2 Permittees shall provide developers and contractors with preferred design specifications to more effectively treat storm water for different development types such as industrial parks, commercial strip malls, retail gasoline outlets, restaurants, parking lots, automotive service facilities, street and road construction, and projects located in, adjacent to, or discharging to environmentally sensitive areas.
- 4.2.5.4.3 Permittees shall keep a representative copy of information that is provided to design professionals; and if information is distributed to a large number of design professionals at once, the dates of the mailings and lists of recipients.
- 4.2.5.5. All Permittees shall adopt and implement SOPs or similar type of documents for site inspection and enforcement of post-construction storm water control measures. These procedures must ensure adequate ongoing long-term operation and maintenance of approved storm water control measures.
 - 4.2.5.5.1 The ordinance or other regulatory mechanism shall include provisions for post-construction access for Permittees to inspect storm water control measures on private properties that discharge to the MS4 to ensure that adequate maintenance is being performed. The ordinance or other regulatory mechanism may, in lieu of requiring that the Permittee's staff inspect and maintain storm water controls on private property, instead require private property owner/operators or qualified third parties to conduct maintenance and provide annual certification that adequate maintenance has been performed and the structural controls are operating as designed to protect water quality. In this case, the Permittee must require a maintenance agreement addressing maintenance requirements for any control measures installed on site. The agreement must allow the Permittee to conduct oversight inspections of the storm water control measures and also account for transfer of responsibility in leases and/or deeds. The agreement must also allow the Permittee to perform necessary maintenance or corrective actions neglected by the property owner/operator, and bill or recoup costs from the property owner/operator as needed.
 - 4.2.5.5.2 Permanent structural BMPs shall be inspected at least once during installation by qualified personnel. Upon completion, the Permittee must verify that long-term BMPs were constructed as designed.
 - 4.2.5.5.3 Inspections and any necessary maintenance must be conducted annually by either the Permittee or through a maintenance agreement, the property owner/operator. On sites where the property owner/operator is conducting maintenance, the Permittee shall inspect those storm water control measures at least once every five years, or more frequently as determined by the Permittee to verify and ensure that adequate maintenance is being performed. The Permittee must document its findings in an inspection report which includes the following:

- Inspection date;
- Name and signature of inspector;
- Project location;
- Current ownership information;
- A description of the condition of the storm water control measure including the quality of: vegetation and soils; inlet and outlet channels and structures; catch basins; spillways; weirs, and other control structures; and sediment and debris accumulation in storage as well as in and around inlet and outlet structures; and,
- Specific maintenance issues or violations found that need to be corrected by the property owner or operator along with deadlines and reinspection dates.

4.2.5.6. Permittees shall ensure that all staff involved in post-construction storm water management, planning and review, and inspections and enforcement receive adequate training on an annual basis. Training shall be provided or made available for staff in the fundamentals of long-term storm water management through the use of structural and non-structural control methods. The training records to be kept include dates, activities or course descriptions, and names and positions of staff in attendance. The Permittee shall ensure that all new hires are trained upon hire and before commencing storm water related duties and annually thereafter, at a minimum. Follow-up training shall be provided as needed to address changes in procedures, methods or staffing.

4.2.5.7. The Permittee must maintain an inventory of all post-construction structural storm water control measures installed and implemented at new development and redeveloped sites that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. This inventory shall include both public and private sector sites located within the Permittee's service area.

4.2.5.7.1 Each entry to the inventory must include basic information on each project, such as project's name, owner's name and contact information, location, start/end date, etc. In addition, inventory entries must include the following for each project:

- Short description of each storm water control measure (type, number, design or performance specifications);
- Short description of maintenance requirements (frequency of required maintenance and inspections); and
- Inspection information (date, findings, follow up activities, prioritization of follow-up activities, compliance status).

4.2.5.7.2 Based on inspections conducted pursuant to Part 4.2.5.5., the Permittee must update the inventory as appropriate where changes occur in property ownership or the specific control measures implemented at the site.

4.2.6. *Pollution Prevention and Good Housekeeping for Municipal Operations*

All Permittees shall implement a program for Permittee-owned or operated facilities, operations and structural storm water controls that includes standard operating procedures (SOPs), pollution prevention BMPs, storm water pollution prevention plans or similar type of documents, and a training component that have the ultimate goal of preventing or reducing the runoff of pollutants to the MS4 and Waters of the State. All components of the program shall be included in the SWMP document and must identify the department (and where appropriate, the specific staff) responsible for performing each activity described in this section. The Permittee must develop an inventory of all such Permittee-owned or operated facilities. The Permittee must review this inventory annually and update as necessary. The minimum performance measures are:

4.2.6.1. Permittees shall develop and keep current a written inventory of Permittee-owned or operated facilities and storm water controls that may include but is not limited to:

- Composting facilities
- Equipment storage and maintenance facilities
- Fuel farms
- Hazardous waste disposal facilities
- Hazardous waste handling and transfer facilities
- Incinerators
- Landfills
- Landscape maintenance on municipal property
- Materials storage yards
- Pesticide storage facilities
- Public buildings, including libraries, police stations, fire stations, municipal buildings, and similar Permittee-owned or operated buildings
- Public parking lots
- Public golf courses
- Public swimming pools
- Public works yards
- Recycling facilities
- Salt storage facilities
- Solid waste handling and transfer facilities
- Street repair and maintenance sites
- Vehicle storage and maintenance yards
- Permittee-owned and/or maintained structural storm water controls

4.2.6.2. All Permittees shall assess the written inventory of Permittee-owned or operated facilities, operations and storm water controls identified in Part 4.2.6.1. for their potential to discharge to storm water the following typical urban pollutants: sediment, nutrients, metals, hydrocarbons (e.g., benzene, toluene, ethylbenzene and xylene), pesticides, chlorides, and trash. Other pollutants may be associated with, but not generated directly from, the municipally-owned or operated facilities, such as bacteria, chlorine, organic matter, etc. Therefore, the Permittee must determine additional pollutants associated with its facilities that could be found in storm water

discharges. A description of the assessment process and findings must be included in the SWMP document.

- 4.2.6.3. Based on the assessment required in Part 4.2.6.2., the Permittee must identify as “high-priority” those facilities or operations that have a high potential to generate storm water pollutants. Among the factors that must be considered in giving a facility a high priority ranking is the amount of urban pollutants stored at the site, the identification of improperly stored materials, activities that must be performed outside (e.g., changing automotive fluids), proximity to waterbodies, poor housekeeping practices, and discharge of pollutant(s) of concern to impaired water(s).
- 4.2.6.4. Within **180 days** from the effective date of this Permit, the Permittee shall develop and implement a Storm Water Pollution Prevention Plan (SWPPP) or similar type document for each “high-priority” Permittee-owned or operated facility. The SWPPP shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with activity from the facility. The SWPPP shall describe and ensure the implementation of standard operating practices (SOPs) that are to be used to reduce the pollutants in storm water discharges associated with activity at the facility and to ensure compliance with the terms and conditions of this Permit. This document shall be tailored and retained at all “high priority” facility locations. The SWPPP shall include a site map showing the following information:
- Property boundaries;
 - Buildings and impervious surfaces;
 - Directions of storm water flow (use arrows);
 - Locations of structural control measures;
 - Location and name of the nearest defined drainage(s) which could receive runoff from the facility, whether it contains water or not;
 - Locations of all storm water conveyances including ditches, pipes, basins, inlets, and swales;
 - Locations where the following activities are exposed to storm water:
 - Fixed fueling operations;
 - Vehicle and equipment maintenance and/or cleaning areas;
 - Brine making areas;
 - Loading/unloading areas;
 - Waste storage or disposal areas;
 - Liquid storage tanks;
 - Process and equipment operating areas;
 - Materials storage or disposal areas;
 - Locations where significant spills or leaks have occurred;
 - Locations of all visual storm water monitoring points;
 - Locations of storm water inlets and outfalls, with a unique identification code for each outfall and an approximate outline of the areas draining to each outfall;

- Locations of all non-storm water discharges;
 - Locations of sources of run-on to your site from adjacent property.
- 4.2.6.5. The following inspections shall be conducted at “high priority” Permittee-owned or operated facilities:
- 4.2.6.5.1 Weekly visual inspections: The Permittee must perform weekly visual inspections of “high priority” facilities in accordance with the developed SOPs to minimize the potential for pollutant discharge. The Permittee must look for evidence of spills and immediately clean them up to prevent contact with precipitation or runoff. The weekly inspections must be tracked in a log for every facility and records kept with the SWMP document. The inspection log should also include any identified deficiencies and the corrective actions taken to fix the deficiencies.
- 4.2.6.5.2 Quarterly comprehensive inspections: At least once per quarter, a comprehensive inspection of “high priority” facilities, including all storm water controls, must be performed, with specific attention paid to waste storage areas, dumpsters, vehicle and equipment maintenance/fueling areas, material handling areas, and similar pollutant-generating areas. The quarterly inspection results must be documented and records kept with the SWMP document. This inspection must be done in accordance with the developed SOPs. An inspection report must also include any identified deficiencies and the corrective actions taken to remedy the deficiencies.
- 4.2.6.5.3 Quarterly visual observation of storm water discharges: At least once per quarter, the Permittee must visually observe the quality of the storm water discharges from the “high priority” facilities (unless climate conditions preclude doing so, in which case the Permittee must attempt to evaluate the discharges four times during the wet season). Any observed problems (e.g., color, foam, sheen, turbidity) that can be associated with pollutant sources or controls must be remedied to prevent discharge to the storm drain system. Visual observations must be documented and records kept with the SWMP document. This inspection must be done in accordance with the developed SOPs. The inspection report must also include any identified deficiencies and the corrective actions taken to remedy the deficiencies.
- 4.2.6.6. SOPs shall be developed and implemented for the following types of facilities and/or activities listed below:
- 4.2.6.6.1 Buildings and facilities: SOPs shall address, but is not limited to: Permittee-owned or operated offices, police and fire stations, pools, parking garages, and other Permittee-owned or operated buildings or utilities. The SOPs must address the use, storage and disposal of chemicals and ensure through employee training, that those responsible for handling these products understand and implement the SOPs. All Permittee-owned or operated facilities must develop and ensure that spill prevention plans are in place, if applicable, and coordinate with the local fire department as necessary. The SOPs must address dumpsters and other waste management which includes, but is not limited to, cleaning, washing, painting and other maintenance activities. The Permittee must include a description of schedules and SOPs for sweeping parking lots and keeping the area surrounding the facilities clean to minimize runoff of pollutants. All Permittees must maintain an inventory of all floor drains inside all Permittee-owned or operated buildings. The inventory must be kept

current. The Permittee must ensure that all floor drains discharge to appropriate locations.

- 4.2.6.6.2 Material storage areas, heavy equipment storage areas and maintenance areas. Permittees shall develop and implement SOPs to protect water quality at each of these facilities owned or operated by the Permittee.
- 4.2.6.6.3 Parks and open space. SOPs shall address, but are not limited to: the proper application, storage, and disposal of fertilizer, pesticides, and herbicides including minimizing the use of these products and using only in accordance with manufacturer's instructions; sediment and erosion control; evaluation of lawn maintenance and landscaping activities to ensure practices are protective of water quality such as, proper disposal of lawn clippings and vegetation, and use of alternative landscaping materials such as drought tolerant plants. The SOPs must address the management of trash containers at parks and other open spaces which include scheduled cleanings and establishing a sufficient number of containers, and for placing signage in areas concerning the proper disposal of pet wastes. The SOPs must also address the proper cleaning of maintenance equipment, building exterior, trash containers and the disposal of the associated waste and wastewater. Permittees shall implement park and open space maintenance pollution prevention/good housekeeping practices at all park areas, and other open spaces owned or operated by the Permittee.
- 4.2.6.6.4 Vehicle and Equipment. SOPs shall address, but are not limited to: vehicle maintenance and repair activities that occur on Permittee-owned or operated vehicles. BMPs should include using drip pans and absorbents under or around leaky vehicles and equipment or storing indoors where feasible. Fueling areas for Permittee-owned or operated vehicles and equipment shall be evaluated. If possible, place fueling areas under cover in order to minimize exposure. The O & M program shall include SOPs to ensure that vehicle wash waters are not discharged to the MS4 or Waters of the State. This Permit strictly prohibits such discharges.
- 4.2.6.6.5 Roads, highways, and parking lots. SOPs shall address, but are not limited to: SOPs and schedule for sweeping streets and Permittee-owned or operated parking lots and any other BMPs designed to reduce road and parking lot debris and other pollutants from entering the MS4; road and parking lot maintenance, including pothole repair, pavement marking, sealing and repaving; cold weather operations, including plowing, sanding, and application of deicing compounds and maintenance of snow disposal areas; right-of-way maintenance, including mowing, herbicide and pesticide application; and municipally-sponsored events such as large outdoor festivals, parades or street fairs. The Permittee must ensure that areas used for snow disposal will not result in discharges to receiving waters.
- 4.2.6.6.6 Storm water collection and conveyance system. SOPs shall address, but are not limited to: SOPs and schedules for the regular inspection, cleaning, and repair of catch basins, storm water conveyance pipes, ditches and irrigation canals, culverts, structural storm water controls, and structural runoff treatment and/or flow control facilities. Permittees shall implement catch basin cleaning, storm water system maintenance, scheduled structural BMP inspections and maintenance, and pollution prevention/good housekeeping practices. Permittees shall prioritize storm sewer system maintenance, with the highest priority areas being maintained at the greatest

frequency. Priorities should be driven by water quality concerns, the condition of the receiving water, the amount and type of material that typically accumulates in an area, or other location-specific factors. All Permittee-owned or operated storm water structural BMPs including but not limited to, swales, retention/detention basins or other structures must be inspected annually to ensure that they are properly maintained to reduce the discharge of pollutants into receiving waters. Permittees shall ensure and document proper disposal methods of all waste and wastewater removed from the storm water conveyance system. These disposal methods apply to, but are not limited to, street sweeping and catch basin cleaning. Materials removed from the MS4 shall be dewatered in a contained, impervious area and discharged to the local sanitary sewer (with approval of local authorities) where feasible. The solid material shall be stored and disposed of properly to avoid discharge to Waters of the State during a storm event. Any other treatment and disposal measures shall be reviewed and approved by the Division. Some materials removed from storm drains and open channels may require special handling and disposal, and may not be authorized to be disposed of in a landfill.

- 4.2.6.6.7. Other facilities and operations Permittees shall identify any facilities and operations not listed above that would reasonably be expected to discharge contaminated runoff, and develop, implement, and document the appropriate BMPs and SWPPP to protect water quality from discharges from these sites.
- 4.2.6.7. If a Permittee contracts with a third-party to conduct municipal maintenance or allows private developments to conduct their own maintenance, the contractor shall be held to the same standards as the Permittee. This expectation must be defined in contracts between the Permittee and its contractors or the contractors of private developments. The Permittee shall be responsible for ensuring, through contractually-required documentation or periodic site visits that contractors are using appropriate storm water controls and following the standard operating procedures, storm water control measures, and good housekeeping practices of the Permittee.
- 4.2.6.8. The Permittee must develop and implement a process to assess the water quality impacts in the design of all new flood management structural controls that are associated with the Permittee or that discharge to the MS4. This process must include consideration of controls that can be used to minimize the impacts to site water quality and hydrology while still meeting project objectives. A description of this process must be included in the SWMP document
- 4.2.6.8.1 Existing flood management structural controls must be assessed to determine whether changes or additions should be made to improve water quality. A description of this process and determinations should be included in the SWMP document.
- 4.2.6.9. Public construction projects shall comply with the requirements applied to private projects. All construction projects disturbing greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, owned or operated by the Permittee are required to be covered under the General UPDES Permits for Storm Water Discharges Associated with Construction Activities.
- 4.2.6.10. The Permittee shall ensure that all employees, contracted staff, and other responsible entities that have primary construction, operation, or maintenance job functions that

are likely to impact storm water quality receive annual training. The Permittee shall identify target individuals to participate in the training sessions and ensure that all such employees receive training upon being hired and annually thereafter, at a minimum. Training shall address the importance of protecting water quality, the requirements of this Permit, operation and maintenance requirements, inspection procedures, ways to perform their job activities to prevent or minimize impacts to water quality, SOPs and SWPPPs for the various Permittee-owned or operated facilities and procedures for reporting water quality concerns, including potential illicit discharges. Training records must be kept and shall include dates, activities or course descriptions, and names and positions of staff in attendance. Follow-up training shall be provided as needed to address changes in procedures, methods or staffing.

4.3. Sharing Responsibility

- 4.3.1. Implementation of one or more of the six minimum measures may be shared with another entity, or the entity may fully take over the measure. A Permittee may rely on another entity only if:
 - 4.3.2. The other entity, in fact, implements the control measure;
 - 4.3.3. The particular control measure, or component of that measure, is at least as stringent as the corresponding Permit requirement; and
 - 4.3.4. The other entity agrees to implement the control measure through a written agreement. This obligation must be maintained as part of the description given in the Permittee's SWMP document. If the other entity agrees to report on the minimum control measure, the Permittee must supply the other entity with the reporting requirements contained in Part 5.5. of this Permit. If the other entity fails to implement the control measure, then the Permittee remains liable for any discharges due to that failure to implement.
- 4.3.5. The Permittee conducts training of the responsible entity on the Permit requirements and applicable standard operating procedures.

4.4. Reviewing and Updating Storm Water Management Programs

- 4.4.1. Storm Water Management Program Review: All Permittees must conduct, at a minimum, an annual review of the SWMP document in conjunction with preparation of the annual report required in Part 5.5.
- 4.4.2. *Storm Water Management Program Update:* A Permittee may change the SWMP document during the life of the Permit in accordance with the following procedures:
 - 4.4.2.1. Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP document may be made at any time upon written notification to the Division.

- 4.4.2.2. Changes replacing an ineffective or unfeasible BMP specifically identified in the SWMP document with an alternate BMP may be adopted at any time, provided the analysis is clearly outlined and subsequently approved by the Division. An analysis shall include:
 - 4.4.2.2.1 An explanation of why the BMP is ineffective or infeasible,
 - 4.4.2.2.2 Expectations or report on the effectiveness of the replacement BMP, and
 - 4.4.2.2.3 An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced, or has achieved those goals.
- 4.4.3. Change requests or notifications must be made in writing and signed in accordance with Part 6.8.
- 4.4.4. Change requests or notifications will receive confirmation and approval or denial in writing from the Division.
- 4.4.5. Storm Water Management Program Updates required by the Division: The Division may require changes to the SWMP as needed to:
 - 4.4.5.1. Address impacts on receiving water quality caused, or contributed to, by discharges from the MS4;
 - 4.4.5.2. Include more stringent requirements necessary to comply with new Federal regulatory requirements; or
 - 4.4.5.3. Include such other conditions deemed necessary by the Division to comply with the goals and requirements of the Clean Water Act.

5.0 Narrative Standard, Monitoring, Recordkeeping and Reporting

5.1. Narrative Standard

It shall be unlawful, and a violation of this Permit, for the Permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or conditions which produce undesirable aquatic life or which produces objectionable tastes in edible aquatic organisms; or concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures

5.2. Analytical Monitoring

Permittees are not required to conduct analytical monitoring (see definition in Part 7.3) during the effective term of this Permit, with the following exceptions:

- 5.2.1. Water quality sampling may be required for compliance with TMDLs, pursuant to Part 3.1. of this Permit.
- 5.2.2. Sampling or testing may be required for characterizing illicit discharges pursuant to Parts 4.2.3.4., 4.2.3.5., and 4.2.3.5.1 of this Permit.
- 5.2.3. In the event that the MS4 elects to conduct analytical monitoring as part of its Storm Water Management Program, the Permittee is required to comply with Part 6.18. of this Permit.

5.3. Non-analytical Monitoring

- 5.3.1. Non-analytical monitoring (see definition in Part 7.32.) such as visual dry weather screening is required to comply with Part 4.2.3.3.2 of this Permit.

5.4. Record keeping

- 5.4.1. Permittees must keep all supplementary documents associated with this Permit (e.g., Storm Water Management Program (SWMP) document, SWMP Implementation Schedule) current and up to date to achieve the purpose and objectives of the required document.
- 5.4.2. All modifications to supplementary documents must be submitted to the *Division* in accordance with Parts 4.4 and 6.8.
- 5.4.3. The *Division* may at any time make a written determination that parts or all of the supplementary documents are not in compliance with this Permit, wherein the Permittee must make modifications to these parts within a time frame specified by the *Division*.
- 5.4.4. The Permittee shall retain all required plans, records of all programs, records of all monitoring information, copies of all reports required by this Permit, and records of

all other data required by or used to demonstrate compliance with this Permit, for at least five years. This period may be explicitly modified by alternative provisions of this Permit or extended by request of the *Division* at any time.

- 5.4.5. The Permittee must make records, including the Notice of Intent (NOI) and the SWMP document, available to the public if requested.

5.5. Reporting

- 5.5.1. The Permittee must submit an annual report to the Division by October 1 for the reporting period of July 1 to June 30 of each year of the Permit term.
- 5.5.2. The report must be submitted using the report form provided on the *Division's* website at <http://www.deq.utah.gov/Permits/water/updes/stormwatermun.htm>.
- 5.5.3. The Permittee shall sign and certify the annual report in accordance with Part 6.8.
- 5.5.4. Signed copies of the Annual Report and all other reports required herein, shall be submitted to:

Department of Environmental Quality
Division of Water Quality
PO Box 144870
195 North 1950 West
Salt Lake City, UT 84114-4870

6.0 Standard Permit Conditions

6.1. Duty to Comply

The Permittee must comply with all conditions of this Permit. Any Permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification; or for denial of a Permit renewal application. The Permittee shall give advance notice to the Division of any planned changes in the Permitted facility or activity, which may result in noncompliance with Permit requirements.

6.2. Penalties for Violations of Permit Conditions

The *Act* provides that any person who violates a Permit condition implementing provisions of the *Act* is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates Permit conditions or the *Act* is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under *UCA 19-5-115(2)* a second time shall be punished by a fine not exceeding \$50,000 per day.

6.3. Duty to Reapply

If the Permittee wishes to continue an activity regulated by this Permit after the expiration date of this Permit, the Permittee shall apply for and obtain a new Permit. The application shall be submitted at least **180 days** before the expiration date of this Permit. Continuation of expiring Permits shall be governed by regulations promulgated at *UAC R317-8-5* and any subsequent amendments.

6.4. 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.

6.5. Duty to Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Permit, which has a reasonable likelihood of adversely affecting human health or the environment.

6.6. Duty to Provide Information

The Permittee shall furnish to the Division, within a time specified by the Division, any information which the Division may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Permit, or to determine compliance with this Permit. The Permittee shall also furnish to the Division, upon request, copies of records required to be kept by this Permit.

6.7. Other Information

When the Permittee becomes aware that it failed to submit any relevant facts in a Permit application, or submitted incorrect information in a Permit application or any report to the Division, it shall promptly submit such facts or information.

6.8. Signatory Requirements

All notices of intent, storm water management programs, storm water pollution prevention plans, reports, certifications or information either submitted to the *Division* or that this Permit requires to be maintained by the Permittee, shall be signed, dated and certified as follows:

- 6.8.1. All Permit applications shall be signed by either a principal executive officer or ranking elected official.
- 6.8.2. All reports required by the Permit and other information requested by the Division 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:
 - 6.8.2.1. The authorization is made in writing by a person described above and submitted to the Division, and,
 - 6.8.2.2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. A duly authorized representative may thus be either a named individual or any individual occupying a named position.
 - 6.8.2.3. Changes to authorization. If an authorization under *Part 6.8.2.* is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of *Part 6.8.2.* must be submitted to the Division prior to or together with any reports, information, or applications to be signed by an authorized representative.
- 6.8.3. *Certification.* Any person signing documents under this Part 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."

6.9 Availability of Reports

Except for data determined to be confidential under the Government Records Access and Management Act (*see* particularly Utah Code Ann. § 63-2-309) and Utah Code Ann. § 19-1-3-6, all reports prepared in accordance with the terms of this Permit shall be available for public inspection at the office of the Division. As required by the *Act*, Permit applications, Permits and effluent data shall not be considered confidential.

6.10. Penalties for Falsification of Reports

The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both. Utah Code Ann. § 19-5-115(4)

6.11. Penalties for Tampering

The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this Permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

6.12. 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*".

6.13. Property Rights

The issuance of this Permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or Local laws or regulations.

6.14. 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.

6.15. Requiring a Different Permit

The *Division* may require the Permittee authorized by this Permit to obtain an individual *UPDES* Permit. Any interested person may petition the *Division* to take action under this paragraph. The *Division* may require the Permittee authorized to discharge under this Permit to apply for an individual *UPDES* Permit only if the Permittee has been notified in writing that a Permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form (as necessary), a statement setting a deadline for the Permittee to file the application, and a statement that on the effective date of the municipal *UPDES* Permit, coverage

under this Permit shall automatically terminate. Permit applications shall be submitted to the address of the *Division of Water Quality* shown in *Part 5.5* of this Permit. The *Division* may grant additional time to submit the application upon request of the applicant. If the municipality fails to submit in a timely manner a municipal *UPDES* Permit application as required by the *Division*, then the applicability of this Permit to the Permittee is automatically terminated at the end of the day specified for application submittal.

6.16. State/Federal 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 *UCA 19-5-117* and *Section 510* of the *Clean Water Act* or any applicable Federal or State transportation regulations, such as but not limited to the Department of Transportation regulations.

6.17. 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 the SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by the Permittee only when necessary to achieve compliance with the conditions of the Permit.

6.18. Monitoring and Records

- 6.18.1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 6.18.2. The Permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of the reports required by this Permit, and records of all data used to complete the application for this Permit, for a period of at least five years from the date of the sample, measurement, report or application. This period may be extended by request of the *Division* at any time.
- 6.18.3. Records of monitoring information shall include:
 - 6.18.3.1 The date, exact place, and time of sampling or measurements;
 - 6.18.3.2 The name(s) of the individual(s) who performed the sampling or measurements;
 - 6.18.3.3 The date(s) and time(s) analyses were performed;
 - 6.18.3.4 The name(s) of the individual(s) who performed the analyses;
 - 6.18.3.5 The analytical techniques or methods used; and
 - 6.18.3.6 The results of such analyses.

6.19. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this Permit.

6.20. Inspection and Entry

The Permittee shall allow the *Division* or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- 6.20.1. 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;
- 6.20.2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this Permit; and
- 6.20.3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment).
- 6.20.4. 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.

6.21. 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 re-issuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Permit condition.

6.22. Storm Water-Reopener Provision

At any time during the duration (life) of this Permit, this Permit may be reopened and modified (following proper administrative procedures) as per *UAC R317.8*, to include, any applicable storm water provisions and requirements, a storm water pollution prevention plan, a compliance schedule, a compliance date, monitoring and/or reporting requirements, or any other conditions related to the control of storm water discharges to "Waters-of-State".

7.0 Definitions

Definitions related to this Permit and small municipal separate storm sewers (MS4s).

- 7.1. "40 CFR" refers to Title 40 of the Code of Federal Regulations, which is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal government.
- 7.2. "Act" means the *Utah Water Quality Act*.
- 7.3. "Analytical monitoring" refers to monitoring of waterbodies (streams, ponds, lakes, etc.) or of storm water, according to UAC R317-2-10 and 40 CFR 136 "Guidelines Establishing Test Procedures for the Analysis of Pollutants," or to State or Federally established protocols for biomonitoring or stream bioassessments.
- 7.4. "Beneficial Uses" means uses of the Waters of the State, which include but are not limited to: domestic, agricultural, industrial, recreational, and other legitimate beneficial uses.
- 7.5. "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- 7.6. "CWA" means *The Clean Water Act of 1987*, formerly referred to as the Federal Water Pollution Control Act.
- 7.7. "Co-Permittee" means any operator of a regulated Small MS4 that is applying jointly with another applicant for coverage under this Permit. A Co-Permittee owns or operates a regulated Small MS4 located within or adjacent to another regulated MS4. A Co-Permittee is only responsible for complying with the conditions of this Permit relating to discharges from the MS4 the Co-Permittee owns or operates. See also 40 CFR 122.26(b)(1).
- 7.8. "Control Measure" refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to Waters of the State.
- 7.9. "Common plan of development or sale" means one plan for development or sale, separate parts of which are related by any announcement, piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, plat, blueprint, contract, Permit application, zoning request, computer design, etc.), physical demarcation (including contracts) that identify the scope of the project. A plan may still be a common plan of development or sale even if it is taking place in separate stages or phases, is planned in combination with other construction activities, or is implemented by different owners or operators.
- 7.10. "Director" means the director of the Utah Division of Water Quality, otherwise known as the *Division* of the Utah Water Quality Board.
- 7.11. "Division" means the Utah Division of Water Quality.
- 7.12. "Discharge" for the purpose of this Permit, unless indicated otherwise, refers to discharges from the Municipal Separate Storm Sewer System (MS4).

- 7.13.** "Dry weather screening" is monitoring done in the absence of storm events to discharges representing, as much as possible, the entire storm drainage system for the purpose of obtaining information about illicit connections and improper dumping.
- 7.14.** "Escalating enforcement procedures" refers to a variety of enforcement actions in order to apply as necessary for the severity of the violation and/or the recalcitrance of the violator.
- 7.15.** "Entity" means a governmental body or a public or private organization.
- 7.16.** "EPA" means the United States Environmental Protection Agency.
- 7.17.** "General Permit" means a Permit which covers multiple dischargers of a point source category within a designated geographical area, in lieu of individual Permits being issued to each discharger.
- 7.18.** "Ground water" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.
- 7.19.** "High quality waters" means any water, where, for a particular pollutant or pollutant parameter, the water quality exceeds that quality necessary to support the existing or designated uses, or which supports an exceptional use.
- 7.20.** "Illicit connection" means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.
- 7.21.** "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a UPDES Permit (other than the UPDES Permit for discharges from the municipal separate storm sewer) and discharges resulting from emergency firefighting activities.
- 7.22.** "Impaired waters" means any segment of surface waters that has been identified by the Division as failing to support classified uses. The Division periodically compiles a list of such waters known as the 303(d) List.
- 7.23.** "Indian Country" is defined as in 40 CFR §122.2 to mean:
- 7.23.1.** 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;
 - 7.23.2.** All dependent Indian communities within the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and
 - 7.23.3.** All Indian allotments, the Indian titles to which have not been extinguished, including right-of-ways running through the same.

- 7.24. "Large MS4" *Large municipal separate storm sewer system* means all municipal separate storm sewers that are located in an incorporated place with a population of 250,000 or more as determined by the current Decennial Census by the Bureau of the Census.
- 7.25. "Low Impact Development" (LID) is an approach to land development (or re-development) that works with nature to more closely mimic pre-development hydrologic functions. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat storm water as a resource rather than a waste product. There are many practices that have been used to adhere to these principles such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements.
- 7.26. "MS4" is an acronym for "municipal separate storm sewer system".
- 7.27. "Maximum Extent Practicable" (MEP) is the technology-based discharge standard for Municipal Separate Storm Sewer Systems established by paragraph 402(p)(3)(B)(iii) of the Federal Clean Water Act (CWA), which reads as follows: "Permits for discharges from municipal storm sewers shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques, and system, design, and engineering methods, and other such provisions as the Administrator or the State determines appropriate for the control of such pollutants."
- 7.28. "Medium MS4" *Medium municipal separate storm sewer system* means all municipal separate storm sewers that are located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the 1990 Decennial Census by the Bureau of the Census
- 7.29. "Monitoring" refers to tracking or measuring activities, progress, results, etc.;
- 7.30. "Municipal separate storm sewer system" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) pursuant to paragraphs R317-8-1.6(4), (7), & (14), or designated under UAC R317-8-3.9(1)(a)5:
- 7.30.1. that is owned or 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 wastes, storm water, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to Waters of the State;
 - 7.30.2. that is designed or used for collecting or conveying storm water;
 - 7.30.3. which is not a combined sewer; and
 - 7.30.4. which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.
- 7.31. "NOI" is an acronym for "Notice of Intent" to be covered by this Permit and is the mechanism used to "register" for coverage under a General Permit.

- 7.32.** “Non-analytical monitoring” refers to monitoring for pollutants by means other than UAC R317-2-10 and 40 CFR 136, such as visually or by qualitative tools that provide comparative or rough estimates.
- 7.33.** “Operator” is the person or entity responsible for the operation and maintenance of the MS4.
- 7.34.** "Outfall" means a point source as defined by UAC R317-8-1.5(34) at the point where a municipal separate storm sewer discharges to Waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other Waters of the State and are used to convey waters of the State.
- 7.35.** “Phase II areas” means areas regulated under UPDES storm water regulations encompassed by Small MS4's (see definition 7.39.).
- 7.36.** “Priority construction site” means a construction site that has potential to threaten water quality when considering the following factors: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; proximity to receiving waterbodies; non-storm water discharges and past record of non-compliance by the operators of the construction site.
- 7.37.** “Redevelopment” is the replacement or improvement of impervious surfaces on a developed site.
- 7.38.** “Runoff” is water that travels across the land surface, or laterally through the ground near the land surface, and discharges to water bodies either directly or through a collection and conveyance system. Runoff includes storm water and water from other sources that travels across the land surface.
- 7.39.** “SWMP” is an acronym for storm water management program. The SWMP document is the written plan that is used to describe the various control measures and activities the Permittee will undertake to implement the storm water management plan.
- 7.40.** “SWPPP” is an acronym for storm water pollution prevention plan.
- 7.41.** “Small municipal separate storm sewer system” is any MS4 not already covered by the Phase I program as a medium or large MS4. The Phase II Rule automatically covers on a nationwide basis all Small MS4s located in “urbanized areas” (UAs) as defined by the Bureau of the Census (unless waived by the UPDES Permitting authority), and on a case-by-case basis those Small MS4s located outside of UAs that the UPDES Permitting authority designates.
- 7.41.1.** This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.
- 7.42.** “SOP” is an acronym for standard operating procedure which is a set of written instructions that document a routine or repetitive activity. For the purpose of this Permit, SOPs should emphasize pollution control measures to protect water quality.
- 7.43.** "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.

- 7.43.** “Storm water management program” means a set of measurable goals, actions, and activities designed to reduce the discharge of pollutants from the Small MS4 to the maximum extent practicable and to protect water quality.
- 7.44.** “TMDL” is an acronym for “Total Maximum Daily Load” and in this Permit refers to a study that: 1) quantifies the amount of a pollutant in a stream; 2) identifies the sources of the pollutant; and 3) recommends regulatory or other actions that may need to be taken in order for the impaired waterbody to meet water quality standards.
- 7.45.** “Urbanized area” is a land area comprising one or more places and the adjacent densely settled surrounding area that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile.
- 7.46.** “Waters of the State” means all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private which are contained within, flow through, or border upon this state or any portion thereof, except bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish and wildlife which shall not be considered to be “Waters of the State” under this definition (“UAC” R317-1-1).

FACT SHEET STATEMENT OF BASIS

**GENERAL PERMIT FOR DISCHARGES FROM SMALL MUNICIPAL SEPARATE
STORM SEWER SYSTEMS
UPDES PERMIT NUMBER UTR090000**

PERMIT MODIFICATION

BACKGROUND

The General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4s), UTR090000, was reissued by the Division of Water Quality (DWQ) on March 1, 2016. The renewed permit included more specific requirements than the previous permit for on-site retention of storm water; specifically, on-site management of the 90th percentile storm event for new and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. Permittees were to accomplish the storm water retention standard by requiring a process which evaluates a Low Impact Development (LID) approach which implements Best Management Practices (BMPs) that infiltrate, evapotranspire and harvest and reuse storm water.

In June 2016, DWQ became aware that certain stakeholder groups, notably the Utah Homebuilders Association (UHBA) and Utah League of Cities & Towns (ULCT) had not been engaged in the public involvement process with the MS4 Permittees during development of the permit. Subsequently, meetings were held with these stakeholders in order to understand their concerns and obstacles to implementation of the retention standard/LID requirements. In order to facilitate communication and collaboration with all stakeholders, DWQ proposes an extension of the timeframe for implementation of the retention standard and LID requirements to March 1, 2019. The over 2-year extension will allow permittees and home builder/developer groups to work through implementation issues and any communication gaps via a technical advisory committee in order to allow for LID practices to be implemented for future development/ redevelopment in MS4 communities.

PERMIT MODIFICATIONS

Two modifications were made to Permit Part 4.2.5, Long-Term Storm Water Management in New Development and Redevelopment (Post-Construction Storm Water Management).

Permit Part 4.2.5.3.2 was modified to require permittees to implement a process to evaluate and encourage an LID approach for all new development or redevelopment projects disturbing greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. By March 1, 2019, the permittees'

program shall include a process which **requires** the evaluation of an LID approach for new development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale.

The date for implementation of Permit Part 4.2.5.3.4 was modified from 180 days from the effective date of the Permit (September 1, 2016) to *March 1, 2019*. This permit provision requires new development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, to manage rainfall on-site and prevent the off-site discharge of the precipitation from all rainfall events less than or equal to the 90th percentile rainfall event.

This modification affects only Permit Parts 4.2.5.3.2 and 4.2.5.3.4. All other permit conditions remain unchanged for this permit modification.

PERMIT DURATION

It is recommended that this modified permit be effective for the remainder of the original permit renewal period of five (5) years. As stated in *UAC R317-8-5.1(1)*, UPDES permits shall be effective for a fixed term not to exceed five (5) years. Therefore, this modified Permit will be set to expire at midnight on February 28, 2021, five years after the original effective date of reissuance.

COMMENT RECEIVED AND DWQ RESPONSES

The 30-day public notice began on September 29, 2016 and ended on October 31, 2016. Comments were received and responded to separately. For the response to comments as received, please refer to the Utah Division of Water Quality's website at: <http://www.deq.utah.gov/Permits/water/updes/stormwatermun.htm>.

The Permit Modifications and Fact Sheet Statement of Basis were drafted by Rhonda Thiele, MS4 Program Coordinator, Utah Division of Water Quality and Jeanne Riley, Storm Water Specialist, Utah Division of Water Quality, with updates on November 28, 2016.

DWQ Response to Comments received during the Public Notice of Proposed Modifications to Small MS4 General Permit Parts 4.2.5.3.2 and 4.2.5.3.4

Comment 1 (Kevin Campbell, P.E., Centerville City): *We understand that the new requirement would require new development or redevelopment to retain on site the 90th percentile storm event.*

Centerville City currently requires new development or redevelopment to detain to 0.2 cfs/acre the 25 year storm event and also requires that the water be treated on the site before it enters the City storm drainage system.

Our main concern is that the new requirement will lead to retention basin design that will leave standing water in them for long periods of time. We currently require that our detention facilities drain freely shortly after a peak event so that there are no ponds or standing water. Ponds lead to many complaints from the residents of our City as the standing water is a nuisance in many ways.

In many areas of our City the sub-soils are very clayey and give little to no infiltration. The future retention areas in these parts of the City would have to be very large and would rely solely on evaporation leaving them inundated for long periods of time. Underground retention in these areas does not work well as the evaporation rates for these underground facilities are also very low.

We do not oppose detention and proper treatment of the storm water, but we do strongly oppose requiring retention to the 90th percentile storm event and do not think that this is something that the State should be requiring of the Cities.

DWQ Response: The requirement of permit part 4.2.5.3.4 is for retention of the 90th percentile storm event, which is the volume representing the small, frequently occurring storms that make up the majority of the total annual precipitation volume.

The design standard requirement for detention to 0.2 cfs/acre (or other rate) is typically the maximum allowable release rate in order to control flows based on the system capacity for storm water piping and other conveyances for a specific design storm. While some water quality treatment may be achieved through detention, the 90th percentile retention standard is intended to retain a portion of storm water on site via methods that infiltrate, evapotranspire and harvest and reuse storm water. The water quality volume associated with the 90th percentile storm event is not intended to replace permittee's design standards. MS4s may have separate standards for flood control and to meet system capacity.

Soils with low permeability may cause standing water and limit infiltration BMPs in some areas. The modified permit states that "if meeting this retention standard is technically infeasible, a rationale shall be provided on a case by case basis for the use of alternative design criteria. The project must document and quantify that infiltration, evapotranspiration and rainwater harvesting have been used to the maximum extent technically feasible and that full employment of these controls are infeasible due to site constraints." If technical design constraints render retention of the 90th percentile storm event infeasible, the Permittee must document the rationale for selection of alternative design criteria. A Long-Term Storm Water Management Work Group has been formed as of November 2016 to consider, among other issues, defining "technically infeasible." Until this term has been further defined, it is the responsibility of the permittee to evaluate site conditions and determine feasibility for compliance with the standard. The permittee should work closely with local mosquito abatement to determine safety issues related to standing water.

Utah's former MS4 Permits included a narrative standard for storm water retention, requiring new and redevelopment projects to "mimic" predevelopment conditions. In 2009 EPA began development of a nationwide numeric retention standard, an effort that was terminated in 2014, when it was decided that each state would establish its own numeric design standard. Numeric design standards that are specific and measurable are an important tool to set clear expectations for controlling storm water impacts from newly developed and redeveloped sites. To date, more than half of the states have implemented a numeric retention standard. Another quarter of the states have specific numeric treatment standards. Only one quarter of the states rely on a narrative standard for retention of storm water.

In April of 2014, EPA conducted a Permit Quality Review (PQR) Audit of Utah's UPDES Program which resulted in one lone critical finding from the Storm Water Program Review: *"The post-construction storm water management requirements are insufficient to meet current expectations of the Maximum Extent Practicable (MEP) standard for MS4s. The post-construction standard requires that MS4s develop and adopt a post-construction ordinance. Development of ordinances should have been completed in previous permit terms, such that this permit could include a specific numeric design standard for all newly developed and re-developed areas (e.g., all new developments must be designed and maintained to retain, detain, or infiltrate the prescribed storm event, such as a 85th, 90th, or 95th percentile storm event). This is especially true for municipalities in the densely populated and rapidly growing parts of Utah."*

Therefore, in March 2016, and subsequently modified with an extended implantation period in December 2016, the Utah General MS4 Permit added the requirement for the retention of the 90th percentile storm event for new and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. The retention design standard is a numeric translator of the former narrative standard which provides a specific depth of rainfall to be retained on site depending on geographic location and precipitation patterns

Comment 2 (Ross Ford, Home Builders Association of Utah): *Stake holders from the construction industry have only recently been brought into the conversation of how to meet the EPA standard of maximum extent practicable for storm water. This group of stake holders is looking forward to working with DEQ to developing specific language to address issues with proposed language.*

DEQ's proposal to move to a more restrictive retention based standard raises concern with the depth of research and understanding of impact on housing. The HBA's research has brought to light concern that the rationale contained within documentation for this stricter standard is comparatively weaker and provides for less flexibility compared to neighboring jurisdictions. DEQ's permit "fact sheet" or statement of basis for the permit contains roughly one page of documentation justifying why Utah chose to implement a 90th percentile retention-based approach. In contrast, EPA recently adopted a nearly identical 90th percentile standard for the Middle Rio Grande Watershed, but provided a lengthy technical justification, as well as a study identifying baseline pre-development hydrology characteristics throughout the state. The permit terms are not yet flexible enough to reflect Utah's unique hydrology and landscape. In addition, as it stands, the permit does not provide clear alternative compliance options for difficult sites, which will disproportionately raise housing costs in certain areas.

DEQ agreed to delay implementation until 2019. It was the HBA's understanding this delay was to allow time for DEQ to assemble a technical advisory group comprised of key state stake holders. The task of this group would be to provide DEQ with recommendation on how to move forward with implementation of the 2016 permit. The advisory group has not been assembled, so clearly no stake holder advise has been offered or received. Furthermore, the delayed implementation is ineffective since MS4's are not compelled or even encouraged to delay implementation within their enforcement jurisdiction.

The retention based standard goes well beyond the federal minimum requirements. This requirement has a potential conflict with Utah State building codes and the recognized adoption process. Currently building codes require drainage from building lots to be collected and channeled to a storm drain system. Compliance with building codes is a state law. The requirement of 90 percentile retention seems to be in direct conflict with current law.

The HBA has concern with mandated LID/green infrastructure when there is not a functioning green infrastructure manual that works for our arid climate. This requirement is unreasonable without a working design manual applicable to Utah's unique geography and climate.

Mandatory Green infrastructure needs to be supported with mandatory language requiring cities to provide alternative compliance options. Different soil types, topography, drainage capacity and other unique site specific conditions require workable solutions. There needs to be language to compel MS4's to accept structural controls best suited to the site, as designed by industry professionals.

DWQ Response: DWQ has been engaged with EPA and other states in the development of a nationwide numeric retention standard since 2009; an effort that was ultimately terminated by EPA in favor of individual state-developed numeric standards. In 2014, EPA conducted a Permit Quality Review (PQR) Audit of Utah's UPDES Program which resulted in one lone critical finding from the Storm Water Program Review: *"The post-construction storm water management requirements are insufficient to meet current expectations of the Maximum Extent Practicable (MEP) standard for MS4s.... this permit could include a specific numeric design standard for all newly developed and re-developed areas.... This is especially true for municipalities in the densely populated and rapidly growing parts of Utah."* Therefore, upon renewal of the General MS4 permit, a retention standard was added to the Long-Term Post-Construction Storm Water Management minimum control measure.

The State of Utah has an active stakeholder group, the Utah Storm Water Advisory Committee (USWAC) and County-wide coalitions, each of which meets monthly. DWQ has communicated the development of the standard with these groups in regular meetings, the annual APWA conference and an LID and Storm Water Regulations conference in June 2015. USWAC was provided a Stakeholder Draft of the Small MS4 Permit in July 2015 and comments were received and addressed. Because MS4 permittees are required to educate those working in their jurisdiction, it was assumed the development community was informed of a new storm water retention standard. However, DWQ agrees that the Utah Home Builders Association was not directly engaged during the lengthy standard development process. In May 2016, upon realization of the need to directly engage the development community, DWQ conducted several meetings with the Home Builders Association of Utah (HBA) and the Utah League of Cities and Towns (ULCT) to attempt to bridge this gap.

Together with UHBA, DWQ formed the Long-Term Storm Water Management Work Group, scheduled for its initial meeting on December 15, 2016. Among the groups objectives will be defining technical feasibility for compliance with the retention standard, alternative compliance options for difficult sites and reconciling conflicts between any local and state laws.

The State of Utah has not developed a Low Impact Development/Green Infrastructure Manual; however there are many resources regarding these strategies and techniques available from EPA and other organizations which have been shared with USWAC. Because of the unique conditions in each MS4 community, permittees must evaluate LID/GI options for suitability in their jurisdiction and develop ordinances and design standards accordingly.

Utah's former MS4 Permits included a narrative standard for storm water retention, requiring new and redevelopment projects to mirror or improve predevelopment conditions. Several permittees have been

requiring storm water retention for several years; however, this narrative standard has been inconsistently applied among the permittees. The standard for retention of the 90th percentile storm event is a numeric translator of the former narrative standard. An implementation date of March 1, 2019, allows those already implementing storm water retention or those who are on-track for implementation, to continue on their path while allowing time for permittees requiring additional time to address feasibility issues and update ordinances and design standards for their jurisdiction.