



## MS4 Construction Oversight Inspections of Permitted Construction Sites SOP

Last Reviewed: May 07, 2025

### Introduction

This SOP was written for Utah MS4s to help them meet the requirements of their [MS4 Permit](#) and to provide guidance to abide by Utah State Code. This SOP references the *Construction Site Storm Water Runoff Control* section of the MS4 Permit. The overarching goal of this SOP is to standardize storm water construction program practices across all MS4s in the State of Utah.

From **Utah Code [19-5-108.3](#)**:

“The applicant shall allow construction site inspections by the authority. Except as provided in Subsection (12), the authority shall conduct an oversight inspection<sup>1</sup> through an electronic site inspection<sup>2</sup>.”

“The authority may conduct an on-site inspection if the authority: has a documented reason for justifying an on-site oversight inspection.”

To differentiate between the two types of oversight inspections, the terms “on-site oversight” and “electronic oversight” inspection are used.

- “On-site oversight inspection” is an inspection in which MS4 staff physically visit(s) a construction site to determine a site’s compliance with construction storm water permits as has been done historically.
- “Electronic oversight inspection” is an offsite inspection in which MS4 conducts a review of the operator's submitted electronic site inspection to determine a site’s compliance with construction storm water permits.

Each of these types of oversight inspections will be described in the *During Construction* portion within the *Process* section of this SOP.

### 1. Purpose:

The purpose of this SOP is to describe how all MS4s will conduct inspections for construction sites that require construction storm water permit coverage under the Construction General Permit (CGP) or Common Plan Permit (CPP). For purposes of this SOP, “operator” means the person responsible for the Storm Water Pollution Prevention Plan (SWPPP) implementation.

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<sup>1</sup> “Oversight inspection” means a construction site inspection performed by the authority to impose compliance with the permit. (Utah Code 19-5-108.3)

<sup>2</sup> “Electronic site inspection” means geo-located and time-stamped photographs the applicant takes, evaluates, and submits electronically to the authority. (Utah Code 19-5-108.3)



## MS4 Construction Oversight

### 2. Responsibilities:

Each MS4's permit staff are responsible for implementing the requirements and may not differ from this SOP. The operator is responsible for abiding by all requirements of the UPDES CGP or CPP, and the MS4 is responsible for oversight.

- The position responsible for oversight inspections is the Assistant City Engineer.
- The position(s) who has authority to implement enforcement procedures are the Public Works Director, City Engineer and Assistant City Engineer, as well as the Division of Water Quality (DWQ).

This SOP is to be followed and updated according to State and municipal requirements.

### 3. MS4 Permit Requirements:

#### 1. Oversight Inspection

- a. Required to be completed by the MS4 on any construction site that is greater than or equal to one acre or is part of a common plan of development or sale which collectively disturbs land greater than or equal to one acre.
- b. MS4 must inspect all phases of construction, including prior to land disturbance, during active construction, and following active construction.
- c. Oversight inspections are required to be completed monthly for non-priority construction sites and biweekly for priority construction sites.

#### 2. Qualified Personnel

- a. The oversight inspection must be performed by a "qualified person" as described in the DWQ MS4 Permit.
- b. Anyone having a job duty related to implementing the construction storm water program must receive annual training. New hires must be trained within 60 days of hire.

#### 3. Record Retention

- a. All MS4s must maintain records for at least five years of all applicable construction project documents which could include:
  - i. Site plan reviews
  - ii. SWPPPs
  - iii. Inspections
  - iv. Enforcement Actions (notices of violation, fines, stop work orders)

### 4. Process:

#### 1. Pre-construction

- a. The MS4 will perform a pre-construction SWPPP review and meeting which at minimum will include:
  - i. A review of the site design
  - ii. Planned operations at the construction site
  - iii. Planned Best Management Practice(s) (BMPs) during the construction phase



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- iv. Planned long-term storm water run-off BMPs
  - v. Documentation:
    - 1. [SWPPP Review Checklist](#): Document the SWPPP Review Checklist through Checklist by Saving Review to the City's Servers and sharing via email.
    - 2. Pre-construction Meeting: Document the meeting and save the meeting minutes to the City's Servers.
  - b. The MS4 will determine the frequency at which oversight inspections will be performed.
  - c. The MS4 must provide the operator the procedure for notifying the MS4 of their completion of active construction.
  - d. The MS4 will perform a pre-construction electronic oversight inspection or on-site oversight inspection with the operator(s).
    - i. This pre-construction inspection must occur before land disturbance and will verify that the operator has placed all site specific construction BMPs prescribed by the SWPPP.
    - ii. Documentation:
      - 1. Pre-construction inspection: Document the inspection through Utilisync.
  - e. The operator should be notified of the option to opt-out of electronic site inspection requirements and signify that election to the MS4.
  - f. The operator will submit a Notice of Intent (NOI) through the NeT NPDES eReporting Tool online (NeT) *before* earth disturbing activities.
2. During Construction
- a. Electronic Oversight Inspection
    - i. The MS4 will perform the required electronic oversight inspections through access to the operator's SWPPP, electronic site inspection(s), and operator's self inspection(s).
      - 1. The operator's report must use geo-located and time-stamped photos of all BMPs implemented at the construction site.
      - 2. All photos must be sufficient to depict that the BMP(s) is meeting its proper function to eliminate or control pollutants on site.
      - 3. The operator's report should show compliance with the CGP or CPP if applicable, and the site specific SWPPP.
        - a. This includes all documentation regarding corrections taken as a result of the operator's self inspection.
  - b. On-site Oversight Inspection
    - i. An on-site oversight inspection may be conducted after the MS4 inspector has provided a 48-hours advance notice of an on-site inspection.
      - 1. Exceptions: If there is an imminent threat of discharge or the operator has formally opted-out of electronic site inspections.
    - ii. An on-site oversight inspection may be warranted under the following conditions:



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1. Inadequate characterization in electronic site inspections of site conditions or portions of a site
  2. Verified complaints
  3. Failure to submit an electronic site inspection at the appropriate time
  4. Alterations of electronic photographs
  5. The construction site is within one-half mile of a river, a stream, or a lake
  6. Compliance with the CGP, CPP if applicable, and site specific SWPPP cannot be reasonably determined during an electronic oversight inspection
  7. A perceived or reported threat to water quality that is immediate<sup>3</sup> and/or imminent<sup>4</sup>
  8. Failure to install BMPs prior to land disturbance
  9. Illicit discharge, unknown/unidentified non-storm water discharge, or prohibited discharge per CGP/CPP permits
  10. The operator opts out of the electronic site inspection and instead elects an on-site inspection
  11. Any other oversight inspection step listed below that cannot be fulfilled
- c. An oversight inspection, both electronic and on-site, is performed by following these steps:
1. Review the SWPPP
  2. Review the SWPPP signage for compliance with the CGP or CPP
    - a. Placed in a safe, conspicuous, and publicly accessible location near the entrance
    - b. Includes UPDES permit tracking number, contact information, and method of SWPPP access
  3. Review the operator self SWPPP inspection reports
  4. Review the entire perimeter and any downgradient areas
  5. Review points of vehicle/equipment exit
  6. Review any discharge points (keep in mind that these are not always piped inlets)
  7. Review all BMPs installed to mitigate or prevent sediment, erosion, and pollution
  8. Review all stabilizing areas (especially steep slopes)
  9. Review all pollutant generating activities such as fueling areas, washout areas, etc.

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<sup>3</sup> Immediate threat means contaminants are entering a river, a stream, or a lake.

<sup>4</sup> Imminent threat means contaminants are anticipated to be discharged into a river, a stream, or a lake within 48-hours.



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10. Observe all discharges (if prohibited or unauthorized this is an immediate and/or imminent threat to water quality)
  11. Observe all conditions that could result in polluted storm water discharge (including sediment in the street/gutter)
  12. Determine if any additional sediment, erosion, and/or pollution prevention controls are needed
  13. Verify that all above activities are accounted for and updated in the site's SWPPP and Map
  14. Any deficiencies must be noted in the oversight inspection form
- d. For oversight inspections, MS4 staff must use the [Oversight Construction Inspection Form](#) provided by the Division of Water Quality.
    - i. MS4 staff sends a copy of the oversight inspection to the operator.
    - ii. MS4 staff maintains record of all oversight inspections through Utilisync.
  - e. If the storm water BMPs on a construction site are found to be deficient by the MS4 inspector, steps will be taken to address the deficiencies as outlined in the *Enforcement for Construction Sites SOP*.
    - i. Violations could include:
      1. Failure to maintain BMPs
      2. Failure to install BMPs
      3. An illicit discharge
      4. Failure to conduct inspections
      5. Failure to document corrections
      6. Failure to update SWPPP
      7. Any other CGP and/or CPP requirements that are deficient
3. After Construction
- a. The operator will request through NeT, a Notice of Termination (NOT) once these conditions have been met:
    - i. Has the site achieved final stabilization?
    - ii. Have all construction materials, waste and waste handling devices been removed?
    - iii. Have all temporary storm water controls been removed?
    - iv. Have all pollutants and pollutant-generating activities been removed?
    - v. If landscaping will be completed by the homeowner, have temporary sediment and erosion controls been installed?
  - b. MS4 staff who have 'MS4 Authority' will be notified of the request to approve the operator's NOT via an email notification from NeT.
  - c. MS4 staff will verify through an electronic oversight inspection (or on-site oversight inspection if applicable described in the *Enforcement for Construction Sites SOP*) if all NOT requirements have been met and approve or deny the NOT submission via NeT.
  - d. MS4 staff will document the NOT inspection through the State's [Storm Water NOT Inspection Form](#) and maintain a record of it through Utilisync.



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- e. All documents related to each applicable construction site must be retained for five years or until construction is completed, whichever is longer.



## **MS4 Construction Oversight**

### **Standard Operating Procedure for MS4 Construction Oversight**

### **Enforcement for Construction Sites SOP**

Last Reviewed: May 13, 2025

#### **Introduction**

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From **Utah Code 19-5-108.3**:

“The authority may conduct an on-site inspection if the authority has a documented reason for justifying an on-site oversight inspection.” (Utah Code 19-5-108.3)

#### **1. Purpose:**

The purpose of this SOP is to describe how MS4s will implement standards from the MS4 Permit in conjunction with Utah State Code 19-5-108.3 in regard to sites that do not comply with their SWPPP and state issued Construction General Permit (CGP) or Common Plan Permit (CPP) if applicable. For purposes of this SOP, “operator” means the person responsible for SWPPP implementation.

#### **2. MS4 Responsibilities:**

Each MS4’s permit staff are responsible for implementing the requirements and may not differ from this SOP. The operator is responsible for abiding by all requirements of the CGP or CPP and the MS4 is responsible for oversight.

- The position responsible for oversight inspections is the Assistant City Engineer.
- The position(s) who has authority to implement enforcement procedures is Public Works Director, City Engineer, and Assistant City Engineer as well as the Division of Water Quality (DWQ).

This SOP is to be followed and updated according to State and municipal requirements.

#### **3. MS4 Permit Requirements:**

1. Enforcement procedures and regulatory authority must be written and documented in the SWMP of each MS4.
  - a. The procedures of this SOP should be summarized or referenced in the MS4’s SWMP which is accessible by the public. Regulatory authority is described in the *Inspections of Permitted Construction Sites SOP*.



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2. Each MS4 permit staff with responsibility over the SWPPP program must be trained in proper documentation of inspections, follow-up, and enforcement actions.
  - a. Documentation of routine maintenance, corrective action, follow-up inspections, and enforcement actions should all be included with citations in the [Oversight Construction Inspection Form](#) provided by the DWQ.
    - i. Any communication between the operator and the MS4 should be recorded and retained through Utilisync and Email.
    - ii. Verbal communication alone is not advised. If important communication does occur verbally (such as agreement on BMP improvement, corrective action deadline, etc) between the operator and the MS4, restating the conversation afterwards via email to the operator is advised so that a record can be retained.
3. For construction sites that have been issued multiple escalating enforcement actions , the construction site could now be designated as a “priority construction site”. Oversight inspection frequency would then increase to at least biweekly due to the past record of non-compliance by the operator and potential to threaten water quality.

### 4. Process:

1. Oversight Inspections
  - a. If violations of the CGP/CPP are determined after conducting an inspection (electronic or on-site) as identified in the *Oversight Inspections SOP*, the MS4 must document each violation as part of completing the [Oversight Construction Inspection Form](#) provided by DWQ. *If the inspection was conducted on-site, justification for an on-site oversight inspection must be documented on the inspection form.*
2. Violation and Follow-up Procedures
  - a. First Notice of Violation (NOV 1)
    - i. The MS4 must notify the operator of the violation(s) in writing as part of completing the *Oversight Construction Inspection Form*. The violation notation at minimum must include:
      1. Explanation/Identification of each violation
      2. Associated citation from the CGP/CPP
      3. Deadline to correct each violation.
        - a. The deadline to correct violations should be no sooner than one business day.
    - ii. Reinspection
      1. The MS4 shall verify (i.e., reinspection photos, documentation) that each violation has been corrected as soon as is practicable after the deadline given by the MS4.
        - a. If the follow up electronic inspection submitted by the operator is not sufficient for MS4 staff to determine that the specific violation has been corrected, an on-site oversight inspection may be conducted to determine that each violation has been





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*corrected. If the inspection was conducted on-site, justification for an on-site oversight inspection must be documented on the inspection form.*

- b. The MS4 should describe to the operator how and when verification of correction will be performed.
    2. If the operator has not corrected the violation(s), the MS4 will notify the operator that the violation hasn't been corrected in writing as described in NOV 2.
    3. If the operator has corrected the violation(s), the operator will be notified by the MS4 that the project is in compliance.
  - b. Second Notice of Violation (NOV 2)
    - i. The MS4 must notify the operator of the violation(s) in writing as part of completing the *Construction Oversight Inspection Form*. The violation notation at minimum must include:
      1. Explanation/Identification of each remaining violation
      2. Associated citation from the CGP/CPP
      3. Written warning that fines can be issued if the violation is not corrected within the new time period specified by the MS4.
        - a. The deadline to correct each violation should be no sooner than one business day.
    - ii. Reinspection
      1. The MS4 shall verify (i.e., reinspection photos, documentation) that each violation has been corrected as soon as is practicable after the deadline within the time period given by the MS4.
        - a. If the follow up is conducted as an electronic inspection submitted by the operator and is not sufficient for MS4 staff to determine that the violation has been corrected, an on-site oversight inspection may be conducted. *If the inspection was conducted on-site, justification for an on-site oversight inspection must be documented on the inspection form.*
        - b. The MS4 should describe to the operator how and when verification of correction will be performed.
      2. If the operator has not corrected the violation(s), the MS4 will notify the operator that the violation hasn't been corrected in writing as described in NOV 3.
      3. If the operator has corrected the violation(s), the operator will be notified by the MS4 that the project is in compliance.
  - c. Third Notice of Violation (NOV 3)
    - i. The MS4 may issue a fine as outlined in Utah Code 19-5-108.3 until the MS4 performs an oversight inspection to verify that the violation has been corrected or the operator shows the violation has been corrected through photos or documentation.



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- d. Documentation:
  - i. The results of all enforcement notices, communications, and inspections including follow-up or reinspections, must be documented through Utilisync and Email.
3. Administrative Fines
  - a. If the operator does not correct the specific violation within the timeline set by the MS4 indicated in NOV 2, the MS4 shall notify the operator in writing that the specific violation has not been corrected and **may** impose an administrative fine for each occurrence\* as follows:
    - i. \$500 per occurrence for working without an approved storm water permit;
    - ii. \$300 per occurrence for tracking mud on road;
    - iii. \$250 per occurrence for failure to clean up or report spills;
    - iv. \$100 per occurrence for failure to conduct storm water inspections;
    - v. \$100 per occurrence for failure to maintain storm water records; and
    - vi. \$500 per site, per occurrence, for failure to use general best management practices, as determined by the authority;

*\* “each occurrence” i.e. “per occurrence” means that for each specific violation there is a separate fine associated with that violation each time that it occurs. For example, with two separate spills in different areas of the site, after the violation and follow up process has been exhausted for each spill, the MS4 could impose an administrative fine on the operator at \$250 for each spill.*

  - b. The MS4 may impose the administrative fine:
    - i. for each business day the specific violation continues beginning on the day after the day on which the authority issues the administrative fine;
    - ii. and within 30 days after the day on which the applicant corrects the violation.
  - c. When the MS4 issues an administrative fine, the MS4 shall:
    - i. impose each fine in writing and clearly document the specific violation in the writing; and
    - ii. deposit collected fines into a restricted account for education and outreach under a program.
4. Special Cases
  - a. The MS4 may issue a stop work order if the MS4 has clear documentation of an immediate<sup>1</sup> threat to water quality.
  - b. The MS4 can correct a specific violation for the operator, and recoup the costs associated, if the operator refuses to correct the violation after the enforcement

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<sup>1</sup> Immediate threat means contaminants are entering a river, a stream, or a lake.



## MS4 Construction Oversight

process and there is imminent threat<sup>2</sup> of significant harm to water quality or the stormwater system.

- c. Except in cases of immediate threats to water quality the MS4 cannot issue a stop work order if the violation is a result of a properly installed and maintained BMP per specifications for the site conditions from the preferred BMP list.

### 5. Communication:

Each MS4 will utilize a method of communication for enforcement (such as a notice of violation, fines, stop work orders) to the operator.

- The method used for this MS4 is are Physical Letter, Email, and Utilisync.

### 6. [Flow Chart attached](#).

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<sup>2</sup> Imminent threat means contaminants are anticipated to be discharged into a river, a stream, or a lake within 48-hours.

# Enforcement for Construction Sites

## Flow Chart

