

Standard Operating Procedure for MS4 Construction Oversight

Enforcement for Construction Sites SOP

Last Reviewed: November 12, 2024

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 Code 19-5-108.3](#). This SOP references the *Construction Site Storm Water Runoff Control* (4.2.4) 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**:

“A municipal system may conduct an on-site inspection if the municipal system has a documented reason for justifying an on-site oversight inspection.” (Utah Code 19-5-108.3(15))

“Violation” means a failure to implement or maintain preferred best management practices. (Utah Code 19-5-108.3(1)(k))

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 on an applicable construction site.

2. Responsibilities:

Each MS4’s storm water staff are responsible for implementing the requirements and may not defer from this SOP. The operator is responsible for abiding by all requirements of the UPDES Storm Water General Permit or Common Plan Permits for Construction Activities and the MS4 is responsible for oversight.

- The position responsible for oversight inspections is the Environmental and GIS Specialist or trained Public Works Personnel.
- The position(s) who has authority to implement enforcement procedures is Tyler Seamon, 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*.
- 2. Each MS4 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 the [Oversight Construction Inspection Form](#) provided by the DWQ.
 - i. Any communication between the operator and the MS4 should be recorded and retained through email and compliancego.com.
 - 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.

4. Process:

- 1. Oversight Inspections
 - a. If violations of the CGP/CPP permit are determined after conducting an inspection (electronic or onsite) as identified in the *Oversight Inspections SOP*, the MS4 must document each violation on the [Oversight Construction Inspection Form](#) provided by DWQ as identified in the next step. *If the inspection was conducted onsite, justification for an onsite 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 in writing on 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 24 hours (immediate threats to water quality), and no later than 7 days (imminent threats to water quality).
 - ii. Reinspection
 - 1. The MS4 should perform a follow-up electronic oversight inspection to verify that each violation has been corrected after the deadline given by the MS4.
 - a. If the follow up electronic inspection report submitted by the operator is not sufficient for MS4 staff to determine that the violation has been corrected, an onsite oversight inspection may be conducted. *If the inspection was conducted onsite, justification for an onsite oversight inspection must be documented on the inspection form.*

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 the next step.
 - b. Second Notice of Violation (NOV 2)
 - i. The MS4 must notify the operator of the violation in writing on 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. Deadline to correct each violation.
 - a. The deadline to correct violations should be no sooner than 24 hrs (immediate threats to water quality), and no later than 7 days (imminent threats to water quality).
 4. Written warning that a stop work order can be issued if the violation is not corrected within the new time period specified by the MS4. (at minimum, another 24 hours)
 - ii. Reinspection
 1. The MS4 should perform a follow-up electronic oversight inspection to verify that each violation has been corrected after the deadline within the time period given by the MS4.
 - a. If the follow up electronic inspection report submitted by the operator is not sufficient for MS4 staff to determine that the violation has been corrected, an onsite oversight inspection may be conducted. *If the inspection was conducted onsite, justification for an onsite oversight inspection must be documented on the inspection form.*
 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 the next step.
 - c. Third Notice of Violation (NOV 3)
 - i. The MS4 may issue a stop work order 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 an electronic site inspection report.
 - d. Documentation:
 - i. The results of all enforcement notices, communications, and inspections (including follow-up or reinspections) must be documented through compliancego.com
3. Special Cases

- a. The MS4 can issue a stop work order earlier than in the process described above if the MS4 can document that the violation imposes an immediate¹ and/or imminent² threat to water quality.
- b. The MS4 can correct a violation for the operator, and recoup the costs associated, if the operator refuses to correct the violation and there is imminent significant harm to water quality or the stormwater system.
- c. The MS4 cannot issue a stop work order if the violation is a result of a properly installed and maintained BMP per specifications from the preferred BMP list.
- d. MS4s are not allowed to issue fines related to oversight of construction sites.

5. Communication:

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

- The method used for this MS4 is [\[insert method of enforcement communication such as a software, email, physical letter, etc. And include any sub bullets needed to describe the process\]](#)

6. [Flow Chart attached](#).

¹ Immediate Threat: A situation where pollutant discharge to state waters is already occurring or is inevitable without urgent corrective action. This refers to a present and active risk that requires immediate attention to prevent or mitigate further contamination.

² Imminent Threat: A situation that poses a high likelihood of pollutant discharge to state waters in the near future if corrective actions are not taken. This refers to conditions that suggest a serious risk is developing but has not yet resulted in an actual discharge.