

**Division of Water Quality Summary and Responses to Public Comments
Jordan Valley Municipalities Storm Water Permit (UTS000001)
August 2013**

Comment: *The Fact Sheet states that the County is responsible for compiling all Co-Permittee annual reports, yet this requirement has been removed from this current draft permit.*

Response: That Fact Sheet has been corrected to agree with the permit.

Comment: *Please fully define the meaning of “uncontaminated” in this permit as it appears in Permit Part 1.2.2.2. (uncontaminated ground water infiltration and uncontaminated pumped ground water).*

Response: This refers to ground water that has not been contaminated by other sources and does not violate water quality standards.

Comment: *Permit Part 1.2.1.4.: This section implies that any MS4 in the state may apply for coverage under this permit.*

Response: The Permit has been modified to reflect that only municipalities within the greater Salt Lake Area could apply for coverage under this permit.

Comment: *Permit Part 1.6.2.1.: Submittal of the Co-Permittee Identification and Accountability document within 30 days of permit issuance is unreasonable. Jordan Valley Co-Permittees have developed this document for the expired permit, and updating this document requires approval by City/County Councils, thus requiring more than 30 days.*

Response: The time frame for submittal of this document is the same as for the last permit cycle. If accountability has changed at any point since the issuance of the last permit in 2006, changes would have to be submitted to DWQ as per the SWMP modification requirement of all MS4 permits. Any further changes can be made at any time during the new permit term.

Comment: *Permit Part 2.3.2.3. (bullet points): The fiscal impact of implementing BMPs until a quantifiable water quality improvement is realized, is much different than simply measuring frequency of specific actions. Does each MS4 have the option whether to measure quantifiable improvements or simply implement specific actions?*

Response: The intent of Permit Part 2.3. is to indicate the basic information that should be included in a SWMP document. The first 5 bullet points indicate what measurable goals should be based on with the last bullet point indicating what at a minimum should be included in the SWMP document. Therefore, in regards to the bulleted point “quantifiable improvements in the MS4s discharged storm water quality”; this means a measurable goal should be chosen that could be expected to improve the MS4’s discharged storm water quality.

Comment: Sections 2.3.2. requires an update of the SWMP within 120 days, while Section 4.2.2.2. requires public review within 120 days. These sections appear to be in conflict since the Permittees will not be able to submit a revised SWMP to DWQ if there is to also be a 120 day public comment period.

Response: Section 4.2.2.2. and 4.2.2.3. refer to posting the updated SWMP on the Permittee's webpage for public review with a mechanism for receiving comments for the entire life of the permit term. It does not refer to the local jurisdiction's public notice policies.

Comment: Permit Part 3.1.2. & 3.1.3.: These sections should include DWQ improved methods for determining compliance with a TMDL or water quality standard. Is it more appropriate to estimate pollutant loading or pollutant removal? Is water quality modeling most appropriate and if so, which models are approved for this use by DWQ?

Response: MS4 Permittees can receive individualized guidance on their particular TMDL from the Watershed Protection section at DWQ. For further information and staff contacts, please call Carl Adams at 801-536-4330.

Comment: The requirement in Permit Part 4.1.2. for a review of the effectiveness of the SWMP seems redundant with other parts of the permit pertaining to measuring effectiveness.

Response: Permit Part 4.1.2. refers to data management and basic documentation for the purpose of tracking compliance with the various permit requirements, such as the use of a spreadsheet.

Comment: The requirements for O & M and SOPs for municipal facilities in section 4.2.6. are redundant with permitted facilities with a functioning SWPPP.

Response: The terms standard operating facilities and operation and maintenance have been chosen for MS4 permits to help distinguish them from construction and industrial program SWPPPs. Most municipal facilities will be covered under the applicable MS4 permit rather than an industrial permit.

Comment: Permit Part 4.1.3.1: Scheduling storm water tasks should be conducted on a yearly basis instead of a monthly basis.

Response: Permit Part 4.1.3.1. states that "the measurable goals for each of the BMPs shall include, as appropriate, the months and years....". Therefore, the monthly basis to which you refer does not necessarily apply in this provision.

Comment: Permit Part 4.1.3.2.: This section should be revised to require the identification of the responsible division or department, or the title of the official, not the individual. As is, this requires an official modification request when a change occurs for this position.

Response: It is the Division's desire to know the name and contact number of the person responsible for implementing or coordinating the BMPs contained within the SWMP document. If this person(s) change during the permit term, the changes should be made in the SWMP document and such

changes should be forwarded to the Division. This provision is consistent throughout the Division's UPDES permit universe.

Comment: *Permit Part 4.2.1.6.: Is the requirement to include LID practices in Title 40 CFR? What is the regulation for this requirement?*

Response: Post-construction BMPs (also called long-term storm water management, low impact development and green infrastructure) have been always been included in MS4 permits. Please refer to the previous permit, Part II.F.5.a.b.c.d. and e. for requirements that would fall into the category of controls considered as "low impact development". See 40 CFR 122.26(d)(2)(iv)(A)(2).

Comment: *Permit Part 4.2.1.7.: This section appears to be more guidance for an education program and should not be a permit requirement.*

Response: Much of this renewal permit is more prescriptive in nature. The intent of this section is to make it clear what constitutes a public education program that is compliant with this permit requirement, i.e., focused messages with specific audiences, defined goals, and some sort of method to determine effectiveness.

Comment: *Permit Part 4.2.3.3.2.: This section requires clarification: as is, it can be interpreted that an additional 20% of outfalls must be assessed each year. Does this mean that during the first year, 20% of the outfalls will be assessed, the second year, 40%, and so forth?*

Response: The intent of this Permit requirement is for Permittees to determine areas where illicit discharges may more likely occur as described in Permit Part 4.2.3.3.1. These areas are considered priority areas. These priority areas are different from the outfalls that are screened on a routine basis. Permittees should continue their routine screening efforts. Priority areas may be best visually assessed from a catch basin or manhole such as in the example of an industrial, commercial or mixed use area (Permit Part 4.2.3.3.1). Of the list of priority areas assessed by the Permittee, 20% of the list shall be screened during dry weather each year until the entire list has been screened at least once during the 5 year permit term. The basis for the selection of each priority area, the list of all identified priority areas and all screening efforts shall be documented as noted in Permit Parts 4.2.3.3.1 and 4.2.3.3.2. As noted in Permit Part 4.2.3.3.2, "compliance with this provision shall be achieved by: ...field assessing at least 20 percent of the priority areas identified in Part 4.2.3.3.1 to detect illicit discharges within one year of receiving coverage from this Permit, and field assessing an additional 20 percent of the identified high priority water bodies or other high priority area each year thereafter".

Comment: *Permit Part 4.2.3.6.: MS4s should not be required to provide technical assistance when an illicit discharge to the MS4 is identified. The role of the MS4 is to stop the discharge and take enforcement as appropriate in accordance with ordinances, and cannot be required to act as consultants.*

Response: The intent of this permit requirement is not for MS4 staff to act as a private consultant but to act as the custodian of the MS4 that it operates. The "technical assistance" that is indicated in

Permit Part 4.2.3.6. refers to the MS4 operator's role of serving as an expert as to what is and is not allowed into the MS4.

Comment: *Permit Part 4.2.4.1.2: The Utah Stormwater Advisory Committee recently developed and recommended to DWQ a definition of "qualified personnel", as this is currently not defined and is ambiguous.*

Response: DWQ is aware of the proposed definition of "qualified personnel" as it relates to the Construction Storm Water General Permit. The phrase "qualified personnel" is used throughout the MS4 permits and in many different places than just construction site storm water management. Because of the many different requirements of an MS4 Permit, Permittees are required to make the determination of "qualified personnel" and set standards and criteria as they deem necessary.

Comment: *Permit Part 4.2.4.3.3: Is there a requirement to encourage LID practices? While the intent is understood, this is not appropriate as a permit requirement, but rather a part of the zoning process.*

Response: Low-impact development practices in a general sense, describe a type of development that through its low negative environmental impact either enhances or does not significantly diminish environmental quality. In terms of storm water management, LID is an innovative storm water management approach with a basic principle that is modeled after nature with the goal of mimicking a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate and detain runoff close to its source as further addressed in Permit Part 4.2.5. **Long-Term Storm Water Management in New Development and Redevelopment (Post-Construction Storm Water Management)**. The mention of LID practices in Permit Part 4.2.4.3.3. falls in the minimum control measure of **Construction Site Storm Water Runoff Control**, specifically SWPPP review procedures. This is because decisions concerning long-term storm water management through permanent controls are best made at the beginning of a project. It is during pre-construction that a municipality can make a developer aware of the jurisdictions standards, master plan, and long-term storm water management strategies. The use of the word "encourage" in this permit requirement could also be stated as "educate" because the intent is for the Permittee to make the developer aware of its long-term storm water management program which must comply with Permit Part 4.2.5.

Comment: *Permit Part 4.2.4.4.3: Does biweekly mean once every two weeks or twice a week?*

Response: In this case, biweekly means every two weeks. **The Permit has been changed to reflect this clarification.**

Comment: *Permit Part 4.2.5.3.4: This section indicates that treatment is required for a specific storm event, as opposed to a volume requirement. Has DWQ or EPA established requirements for storm water treatment?*

Response: Utah has not yet adopted a State storm water treatment standard and is anticipating that EPA will be setting a standard in the near future.

Comment: *Permit Part 4.2.5.4.2: This section requires the Permittee to establish treatment criteria for specific types of storm water. Is this a requirement under Title 40 CFR? At a minimum, this would require guidance from DWQ/EPA with regards to performance standards of storm water BMPs.*

Response: Please see 40 CFR 122.26(d)(2)(iv)(A)(2) as well as the past and current permit requirement regarding structural and non-structural controls for post-construction storm water management. Performance standards of various storm water BMPs are widely available.

Comment: *Permit Part 4.2.6 & 4.2.6.4.: Permit Part 4.2.6. requires the development of SOPs for Permittee-owned or operated facilities while Permit Part 4.2.6.4. requires the development of SOPs for "high-priority" facilities. Are Permittees required to develop SOPs for all facilities or for high priority facilities? Please clarify.*

Response: The Permittee is to develop and keep current an inventory of all facilities. Permit Part 4.2.6.1. provides a list of facilities to consider but the Permittee is not limited to this list. The Permittee then needs to assess the list for the facilities that have the potential to discharge contaminants to the MS4 (see Permit Part 4.2.6.2.). Standard operating procedures (SOPs) for the purpose of minimizing contaminants from entering the MS4 must be developed for all high-priority facilities. To assist the Permittee in developing this list, Permit Part 4.2.6.4.1 through 4.2.6.4.7 describes facilities and operations that at a minimum must have such SOPs. Permittees may need to develop SOPs for facilities or operations that are not included in Permit Part 4.2.6.4.1 through 4.2.6.4.7 using the criteria described in Permit Part 4.2.6.3.

Comment: *Permit Part 4.2.6.4.1: This section requires an inventory of all floor drains inside all Co-Permittee owned or operated buildings, yet this section applies to those facilities identified as a "high priority". Is this inventory required for all buildings or for high priority facilities? Please clarify.*

Response: Buildings and facilities (Permit Part 4.2.6.4.1) are listed as one of many categories of "high-priority" operations and facilities that must at a minimum be addressed. The requirement to inventory floor drains and make sure they discharge to the appropriate location is described in a section deemed "high-priority" so yes, all Co-Permittee owned or operated buildings are subject to this permit requirement.

Comment: *Permit Part 4.2.6.4.2, 4.2.6.4.3, 4.2.6.7. and 4.2.6.9.: These sections contain vague statements regarding the protection of water quality and need clarification. Are water quality standards applicable in these cases?*

Response: The intent of the permit parts noted is to keep contaminants from the various municipal facilities and operations from entering the MS4. The various BMPs and overall good housekeeping strategies that are described in the Permit are intended to prevent such contaminants from polluting the jurisdictions MS4. Ultimately any given source of pollution could violate water quality standards or the discharge of any given outfall to a receiving water could violate water quality standards.

Comment: *Permit Part 4.2.6.6.1: Weekly inspections of these facilities is excessive-quarterly inspections are typically required in the General Multi-sector Industrial Storm Water Permit.*

Response: DWQ has chosen to adopt the inspection frequencies given in EPA's MS4 Permit Improvement Guide due to noncompliance that has been noted during both DWQ and EPA MS4 audits. Weekly visual inspections do not include taking a sample and need only be tracked in a log with any identified deficiencies and corrective actions noted and therefore, are less excessive than actual physical sampling events.

Comment: *Permit Part 4.2.6.7.: This section requires an evaluation of potential impacts to storm water quality which may necessitate storm water sampling, in-stream sampling, modeling, etc. This section is vague and appears to be requiring storm water treatment and/or establishing limits.*

Response: The intent of this permit requirement is to assess water quality impacts in the design of new flood management projects and consider what controls could be used to minimize the impacts to water quality.

Comment: *Permit Part 4.3.: This section places the burden of compliance with the DWQ General Multi-Sector Industrial Storm Water Permit on the County instead of with DWQ. While the County does not issue permits for these discharges, requiring an ordinance or legal authority to conduct permitting activities would essentially be double permitting. The County recognizes the value of obtaining information regarding these discharges to the County's storm drain system, therefore, we would suggest that DWQ conduct compliance activities as necessary under the MSGP and inform the County of these activities.*

Response: The MS4 permit establishes requirements for MS4s to oversight and regulate industrial and commercial facilities within a Phase I MS4's jurisdiction. Some of these facilities may hold an industrial storm water permit from DWQ, some may not. If DWQ conducts compliance activities in any MS4 jurisdiction, DWQ will certainly inform the local MS4 of these activities.

Comment: *Permit Part 4.3.1.2.: Is the inclusion of commercial operations required in Title 40 CFR? The inclusion of these sites under this section is not reasonable; the IDDE and long-term storm water management programs should suffice for the purposes of minimizing storm water impacts.*

Response: Please refer to page 85 or EPA's MS4 Permit Improvement Guide which indicates that requirements to regulate the storm water discharges from commercial facilities are found at 40 CFR 122.26(d)(2)(iv)(A).

Comment: *Permit Part 4.5.2.1.: This section requires that DWQ be notified of any changes to the SWMP. It seems a reasonable request that this notification could be provided annually instead. This would serve to reduce the time involved in developing these documents and obtaining the necessary signatures.*

Response: The SWMP document is a part of the MS4 permit and is therefore enforceable. Changes to the SWMP document require approval by DWQ. Some changes may need to be made at times other

than during annual report preparation or annual SWMP review. Notification and subsequent approval needs to be made before any changes are actually implemented in a Permittee's SWMP.

Comment: *Permit Part 4.5.2.2.: This section should allow for the deletion of a BMP without proposing a replacement. Where a replacement is feasible and/or effective, one will be made, however, a replacement should not be a requirement in order to refine the SWMP.*

Response: Permit Part 4.5.2.1. has the general statement that changes can be made at any time with DWQ approval. This basic requirement will suffice for those that may just want to delete a BMP. If adequate justification is given for not providing a replacement, DWQ approval will subsequently be given as appropriate.

Comment: *Permit Part 4.5.4.: This section should provide a time frame for DWQ to complete its review of a SWMP modification.*

Response: DWQ will review and provide feedback on SWMP modifications in a timely fashion. If a Permittee is in need of an expedited review, DWQ will strive to accommodate the Permittee's timeline upon request.

Comment: *Permit Part 5.1.: Is DWQ requiring bioassays or other tests in order to comply with this section? As written, it is vague, making compliance difficult.*

Response: Permit Part 5.1. is the Division's Narrative Water Quality Standard language that appears in all UPDES permits to further protect waters of the State. Bioassay or other tests may be necessary in the event of undesirable impacts to aquatic wildlife or human health effects from any and all UPDES permitted facilities as appropriate.

Comment: *Permit Part 5.2.2.: The County is in a unique position of having both unincorporated and incorporated County responsibilities. It should be recognized that the County is responsible for the planning, operation and maintenance of the County-wide storm drain system. Therefore, while we have sampling stations that are physically located in other jurisdictions, these stations are sampling stormwater in our storm drain system. Furthermore, these stations were selected in 1991 to represent various land uses county-wide, providing valuable stormwater quality data. This section needs to be revised to reflect the circumstances of the Salt Lake County storm drain system and responsibilities of the Public Works division; sample stations can be located in other jurisdictions, as long as these stations sample drainage from the Salt Lake County system.*

Response: The Division understands that the County has other responsibilities than what is fully represented in their MS4 Permit. This permit addresses Salt Lake County as a Phase I MS4 Permittee and contains various permit requirements that are to be conducted at a minimum, within the Phase I unincorporated jurisdiction. Therefore, wet weather monitoring sites must be located within the unincorporated Phase I jurisdiction.

Comment: *Permit Part 5.2.2.3.: In the past, the County has reported reasons for not conducting the required sampling in the annual report. Please clarify if this method meets the requirements of this section, or would require a separate submittal to DWQ.*

Response: The County must submit detailed reasons and weather data, or other supporting information, showing why monitoring was not possible. This must be submitted within a reasonable time after monitoring was unable to be conducted; not once a year in the annual report.

Comment: *Permit Part 5.6.2.1.: Please indicate when this report is required.*

Response: The County may stay on its current timeline of submitting this report every five years regardless of when this renewal permit goes into effect.

Comment: *Permit Part 7.9.: USWAC has proposed a definition of a common plan of development to DWQ. Please include this proposed definition in this permit.*

Response: The proposed definition has not been formally adopted as of yet. If and when a revised definition of COPD is promulgated through the CGP renewal process, it will then be incorporated by reference in MS4 permits as well.

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