

FREQUENTLY ASKED QUESTIONS

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

Operators and owners of construction activity that disturb 1 acre or greater are required to get a Storm Water Permit from the Division of Water Quality, however many construction sites that disturb less than 1 acre are also required to get a permit. A site that is less than 1 acre is required to get permit coverage if it is part of a "common plan of development or sale" that is over 1 acre.

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

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

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

What is a Common Plan of Development or Sale?

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

must have been initiated after October, 1992. A common plan of development or sale remains so until each lot or section of the development has fulfilled its planned purposes (e.g. in a residential development as homes are completed, stabilized, and sold or occupied). As lots or separated sections of the development are completed, the lot or section is stabilized, and the plan purposes are fulfilled for that area, lot, or section; it is no longer part of the common plan of development or sale (e.g. if a home is sold in a development and the owner decides to add a garage somewhere on the lot, that garage project is not part of the common plan of development or sale. In this process a common plan of development or sale may become reduced in size and/or separated by completed areas (which are no longer part of the common plan of development or sale), but all unfinished lots remain part of the same common plan development or sale until they are completed, stabilized, and fulfilled according to the purposes of the plan).

What is required in a permit?

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

The objective of the CGP is to control and limit pollutants coming off a construction site so that the pollutants do not end up in a water body. Precipitation/storm events will mobilize pollutants at a construction site and carry the pollutants to a water body. The CGP has been developed with requirements for permittees to take steps to prevent pollutants from leaving the construction site and entering water bodies. Soil particulates are considered pollutants because, although soil particles are naturally eroded, construction activity exacerbates this process substantially. With the action of soil erosion comes the release of nutrients that are normally bound up in soil. This causes degradation of water quality.

A significant requirement of the permit is to create a storm water pollution prevention plan (commonly called a SWPPP; sounds like "swip"). The SWPPP is a plan to address pollutants during the term of the project. The items required in the SWPPP are found in Part 7 of the CGP. The more significant elements of that list are shown below:

1. Identify people responsible for the SWPPP
2. Describe the nature of the construction activity
3. Provide a sequence of construction activities
4. Provide a site map that shows features of the site relevant to storm water management, the placement of storm water control measures deployed for the protect storm water, and areas of the site used for storage or support of construction activity that may affect storm water in a negative way.

5. Provide a list and description of pollutants
6. Identify and address non-storm water discharges
7. Describe how you are dealing with buffer zone requirements (if required)
8. Provide a description of control measures & pollution prevention procedures (this involves details showing how they will be installed properly)
9. Provide procedures for inspections, maintenance, and corrective action
10. Other items.

To summarize, the most significant requirement of a permit is the preparation of a SWPPP. A good way to learn of and meet the requirements of the permit is to start with the preparation of a SWPPP using the SWPPP template (found on at <http://www.waterquality.utah.gov/UPDES/stormwatercon.htm>), while referring to the CGP (all parts) as a reference to review and recall all the requirements.

How does one get a Utah Construction Storm Water Permit?

A permit is obtained by submitting a notice of intent (NOI) to be covered under the UPDES General Storm Water Permit for Construction Activity (CGP). An NOI can be submitted on-line at the web site for the Utah DWQ storm water data base. You can get to that web site by going to <http://www.waterquality.utah.gov/UPDES/stormwatercon.htm>, and clicking on Storm Water Permit Issuance System. At that point if you have not created an account, you must create an account. This involves entering your first and last name, your email address, coming up with a user name, and a password.

After you have filled in all the required information and answered all the questions on the NOI form, the system will move on to the certification screen, and then to the payment screen. The certification screen requires that either the owner or the operator sign the certification for both the owner and the operator. To do this whoever signs must have knowledge that the other party is in agreement with the conditions in the certification. On the payment screen you will be asked to pay the permit fee. The permit fee is a set fee that will cover construction activity for a year. If the project lasts more than a year the permittee(s) will have an opportunity within 6 months from the end of the project to pay another fee to extend the permit another year. The permit fee can be paid with a Visa, MasterCard, or e-check. After you have completed the NOI submission the program will allow you to print the NOI and permit number for your project. Permit coverage begins instantly after you complete the NOI and pay the fee. The permittee must keep a current copy of the NOI in the SWPPP that is signed by both parties.

Storm Water Permits can also be obtained by downloading the NOI form and printing it from the UPDES Construction Storm Water Permit Web site (the same site as was highlighted above).

Filling out and submitting the completed form to the Division of Water Quality will also result in coverage under the CGP.

Remember that before you apply, you must have a SWPPP prepared for the project for which you are applying.

How does the online application work?

The application takes about 20 minutes to complete. If you don't complete it in 30 minutes the form will close, you will lose all information you have input into the system to that point, and you will have to start over again. That happens to prevent people from starting the NOI process, being distracted, and leaving with the application open. If you think it will take longer than 30 minutes to fill out the form and answer the questions, you should download and fill out the NOI paper form found on the DWQ Construction Storm Water web site so you can be ready with the information as you proceed through the electronic form.

Small construction (construction projects that will disturb less than 5 acres) may qualify for an Erosivity Waiver. To test to see if you qualify for the Erosivity Waiver click on [Erosivity Waiver](#) on the DWQ Construction Storm Water web site.

What is an Erosivity Waiver?

An erosivity waiver is a waiver based on a low potential for rainfall. Utah is the second most arid state in the nation therefore, projects that do not have a long duration (and depending on where in Utah they are) may qualify for the waiver. Erosion, the main impetus for the CGP occurs when there is precipitation.

Erosivity waivers apply only for "small construction". "Small construction" are projects that will disturb 5 acres or less during the period of construction.

The erosivity waiver is based on an "R" factor of less than 5. The "R" factor is the climate factor for the RUSLE2 equation. RUSLE2 is the second revision of the Universal Soil Loss Equation.

To calculate the "R" factor you can go to the DWQ web site at <http://www.waterquality.utah.gov/UPDES/stormwatercon.htm> and click on "Erosivity Waiver". You will be able to download a sheet that shows you how to calculate an "R" factor. You can also go to the EPA web site at [XXXXXXXXXXXXXXXXXXXXXXXXXX](#), where the EPA has a calculator that will calculate the "R" factor for you. Remember, the "R" factor must be less than 5 to qualify for an Erosivity Waiver.

Are there Construction Storm Water Permit payment exemptions for local government agencies?

No, City, County, or other government entities are not exempt from the permit fee.

Is the oil and gas (O & G) industry required to apply for construction Storm Water permit coverage?

Only O & G facilities having activities (industrial or construction) that result in a discharge of a reportable quantity release or that release pollutants that cause a violation of a water quality standard are subject to permit coverage (see Utah Administrative Code R317-8-3.9.....).

What waivers are available for Storm Water Phase II construction activity?

The only waiver available for construction activity is for small construction activity and is called an Erosivity Waiver. It is based on seasonally low rainfall. In Utah an Erosivity Waiver is available for small construction activity (5 acres or less) anywhere in Utah where due to the project duration, calendar timing, and location causes an "R" factor of less than 5. See the discussion on Erosivity Waiver above.

How are UPDES Construction Storm Water Permits Terminated?

A permittee can go to the Storm Water Permit Issuance System on the DWQ Storm Water Web site (<http://www.waterquality.utah.gov/UPDES/stormwatercon.htm>) and click on Storm Water Permit Issuance System to access the account where the NOI was originally submitted and proceed through the NOT steps. There are two buttons on the dashboard showing the active permits the permittee owns. One button is to renew the permit the other is to terminate the permit. Additionally, the permittee may go on the DWQ Storm Water Web site, download the NOT form, and submit the completed form to DWQ.

After the permittee has taken the steps to terminate a permit a termination inspection will be performed by the local municipality or State to confirm proper termination preparation has occurred on the site.