

Standard Operating Procedure for MS4 Construction Oversight

Enforcement for Construction Sites SOP

Last Reviewed: May 15, 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 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 Public Works Coordinator in the Storm Water Division that manages the SWPPP Program.
- The position(s) who has authority to implement enforcement procedures is the Public Works Coordinator, Public Works Director, and City Attorney, 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 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 email or uploaded to the Orem Server.
 - 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 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.
- d. Documentation:
- i. The results of all enforcement notices, communications, and inspections including follow-up or reinspections, must be documented through Orem's internal SWPPP Program found on the Orem Toolbar and the PW4 Server.
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 immediate¹ 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 process and there is imminent threat² 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.

¹ Immediate threat means contaminants are entering a river, a stream, or a lake.

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

- The method used for this MS4 is direct notice via email.

6. [Flow Chart attached.](#)