

Minutes

Date: **March 13, 2024**
Time: 10:30 AM to 12:00 PM
Location: This will be a hybrid in-person/virtual meeting. You may choose to attend in person or through the Zoom link below:

In-person:

Utah Department of Environmental Quality
Multi-Agency State Office Building
195 N 1950 W, Salt Lake City, UT 84116

Virtual:

Meeting ID: 82513954595

[Launch Meeting - Zoom](#)

Call-in numbers:

+1 669 900 6833 (San Jose)

+1 253 215 8782 (Tacoma)

+1 312 626 6799 (Chicago)

Mission Statement

The Utah Storm Water Advisory Committee will coordinate efforts to reduce stormwater pollution and provide adequate flood control. The committee will jointly review governing regulations, disseminate information to enhance compliance with those regulations, promote effective stormwater management training, and assist local municipalities and other interested parties to implement best management practices, consistent with their individual needs and resources. The committee will also review any proposed stormwater regulations to assess potential impacts on the regulated community.

1. **Welcome** USWAC members: Tanon Mathews conducting, 2024 Chairman

ACTION ITEMS

2. **USWAC membership roster** sign-in through Google Forms:

Click [here](#) to enter your attendance at USWAC

(Note: Each attending member will need to fill out the form individually.)

3. **Review and approval** of the February 14, 2024, Meeting Minutes Motioned Tom Beesley:
Seconded: Chelsea Lindsey.

TRAINING PRESENTATION

4. **Presentation:** *UPDES Storm Water Permit Training.* - Presented by Julian Carroll with the Utah DEQ. Julian Carroll is the NeT specialist for the Info and Data Services section, supporting the Permitting section with managing UPDES permits through the EPA's Central Data Exchange platform. He has been with DWQ since October 2022, after receiving a Masters Degree in Environmental Science from the University of Utah. He has professional experience working with nonprofits in water quality and other natural resource conservation efforts.

REGULATION & UPDATES

5. State of Utah Updates

a. **Jeanne Riley** – H.B. 507 update

I thought it would be best to prepare a summary of HB 507 of what ended up being passed during the session. I tried to break it down in terms of what the goals were of the sponsor and how the regulations fit together. Hierarchically the MS4s now have new requirements, particularly regarding inspections and enforcement. I will then share some ideas that we had at the division to help support MS4s to comply with the new regulations. I spent quite a bit of time at the capital during this process, working with the sponsor and trying to educate various members of the legislature on construction and stormwater. During that time I think I understood what they were looking for in terms of creating this bill and what I walked away with was it was mostly consistency. I've been talking about this for a couple years here at USWAC about consistency among the way we implement the regulations across the State. I believe what they're looking for is standardization in terms of the way we are permitting and consistency in the way that we are all, selecting BMPs, writing and approving SWPPP, doing inspections, charging fees, and implementing enforcement. So, what we ended up with is this bill and I would say that there were 5 different versions of the bill. The substitution 3 was passed in the House and substitution 5 was passed in the Senate. It will go into effect, as is substitution 5. During the process, those of you who are watching it, noticed that the division was completely removed from the bill and that was because at the time the sponsor was happy with some portions of the bill unhappy with the way it was being crafted. It was very different than the way the division and MS4s implement this permit and needed more time to work on how we were going to implement to the division level. The expectation is that we'll be working on changes during the interim and that it's very likely that we'll see this bill again in the 2025 general session after we've had some time to work on some things. So, there's a pitch we need as many MS4s as we can. We'll be meeting after this meeting to begin work with the subcommittee and any MS4s are invited, and please give your thoughts on what we can do to together to work on some tools to comply with the legislation. I think everyone here

knows the regulatory structure for implementing construction stormwater management in the State. The Clean Water Act is promulgated by US EPA, which creates the NPDES permitting system. We are here in Utah Division Water Quality have primacy for implementing that at the State level as well as our own Utah Water Quality Act. So, we write the MS4, and construction permits and the responsibility for implementing permits at the city level is designated through MS4 permits to our 96 MS4s in the State. One thing you'll notice in HB 507 is the requirement that MS4s may not make requirements for permits more stringent than the Federal regulations. So that would be the Clean Water Act has a process through public notice and public hearing. If the city believes that they need a certain permitting requirement that is more stringent than Federal requirements there's a process for doing that. But in general, they're looking that we follow the Federal regulations.

Definitions

"Applicant" = Operator/Owner (individuals(s) who sign NOI)

"Application" = Notice of Intent (NOI)

"Municipal Systems:" - Regulated MS4

"Electronic site inspection" = geo-located and time-stamped photo taken, evaluated, and submitted electronically by the operator to the MS4

This is similar to what many operators are doing already nowadays by submitting through one of the commercially available softwares. It can be something of someone's own creation, that includes photos.

MS4s shall:

1. Develop a list of preferred construction BMPs and publish this on their website.
2. Complete SWPPP reviews within 14 days of a complete submittal
3. Develop a checklist for SWPPP review.
4. Develop/publish/implement SOPs/forms for construction site inspections.
5. Have a process for the operator to notify the MS4s of completion of construction/final stabilization (existing NOT process)

MS4s shall not:

1. Impose a fine related to a construction storm water permit.
2. Impose a stop work order for a BMP violation if the operator has selected the preferred BMPs for the site conditions and implemented/maintained the BMP properly.

HB 507 MS4 Inspection Requirements:

- MS4s shall conduct inspections through an electronic site tool.
- On-site inspection may be conducted if the MS4 can document a reason justifying an on-site inspection.
- Pre-Construction inspections may be conducted in person, on-site, or using an electronic site inspection tool, unless there is a documented and justified reason to conduct inspections on site. For monthly inspection, you will look at the inspections provided by the operator and if you can conduct your inspections electronically, you are to do so. If the inspection is not thorough enough, then you are justified that there's a reason why those photo locations and photos are not adequate, then you can document that you need to conduct on-site inspection.
 - Photos of construction sites not allowed on Federal facilities, for security reasons. That would be a reason that you would document.
- The operator or operator's designee must participate in the pre-construction inspection.

Question - Are we supposed to be documenting inspection on a case by case basis, or is there a way to document for a project from start to finish?

Jeanne Riley – The bill does not specify. Project basis would be okay. The idea is that you are supposed to try to utilize the information that is provided by the operator if you can. We all know that there are operators out there who are not conducting electronic inspections and won't. Some cities require them, some cities are all on the same platform, some use an entirely different platform and others don't require any of this. This is what we're faced with, to try and figure out if this is implementable, or if there's another way to do this. This is the kind of thing we're going to need to work on over the next several years.

Kelsey Christiansen - If they aren't logging inspections or they didn't upload a photo, then we're justified to do an actual onsite inspection?

Jeanne Riley – That's my understanding.

Kelsey Christiansen - We're lucky if they logged inspections themselves.

Addison Mitton - Or if the photos they send aren't adequate and don't show the full area of what needs inspected, right?

Jeanne Riley – That's my understanding. Yes.

Question – Did you say that complaints received are a justification for an inspection.

Jeanne Riley – I did.

Kelsey Christiansen – Do we have to document the justification?

Jeanne Riley – Yes. Possibly a modification to inspection forms or a space defining whether you're doing this electronically or on-site, also what the justification would be if you're doing an on-site inspection.

Anelson - To clarify, we don't go on-site anymore. We just look at their history and their reports and then fill out our report from there.

Jeanne Riley - That is correct. If it's adequate to conduct your inspection.

Drew Hodge WSU – I work on a college campus as the MS4. Being on campus quite often, I'll see issues, and that's when I'll decide to do an inspection. Would that qualify if I saw track out, or that kind of a thing as I'm doing other things on campus, is that the same as a someone calling and saying something? What's your thoughts on that?

Jeanne Riley - I think you should conduct your inspections monthly as per your MS4 permit. If you see something you should call the operator and ask them to correct it. We're going to have a lot more discussion about that with the subcommittee.

Lynn - So I assume, if they request that we come to an onsite inspection that falls as justification. I think there's going to be several of mine that will ask for me to simply come to the site. They don't want to be bothered with very thorough electronic inspection.

Jeanne Riley - If you don't receive electronic inspections, I'm not sure what else you're supposed to do. You will document that. If you don't have electronic inspections, then you'll have to go on-site and do your inspection.

Lynn - Most of mine will request to come on-site.

Jeanne Riley - There are a couple of other things related to inspections. Pre-construction inspections are required as part of your MS4 permit. They can be conducted in person, on-site or using an electronic inspection. The legislation also says, *“the operator or designee must participate in the preconstruction inspection.”* An operator could submit an electronic inspection and then yes, that would be their participation. I think an operator participating in pre-construction inspections is an excellent place for education, and to provide them with information about your city and who the contacts are, what the procedure is and go over, how to NOT. How are you going to do those inspections? Are they going to be electronic? Are they

going to be on-site? How are they going to submit those to you? I think it's a very important part of starting a construction project. It's my understanding that this was the most important part, that several MS4s worked with the bill sponsor. We ended up with a 7-step process on how everyone is to escalate enforcement across MS4s.

1. Notify operator of violation in writing. Then provides greater than greater than 24 hours to correct so 24 hours is fine or greater than 24 hours. Whatever you're doing, it just needs to be at least 24 hours for the operator to correct.
2. Provide greater than 24 hours to correct. 24 hours is fine or greater than 24 hours. Whatever you're doing, it just needs to be at least 24 hours for the operator to correct.
3. Perform inspection to verify violation corrected. This can be onsite, or it can be electronic by them providing photos to you.
4. If not correct, issue a written warning that construction may be stopped if the violation is not corrected within less than 24 hours.
5. Perform inspection corrected. This can be photos or on-site.
6. If not corrected, notify operator in writing that the violation has not been corrected.
7. May issue a stop work order until inspection performed by MS4 to verify that the violation is corrected. No penalties.
 - a. MS4 may recoup costs incurred to correct a violation if the operator refuses AFTER the preceding steps have been exhausted AND IF the violation is determined to be significant threat to water quality or the storm drain system. Example street sweeping.
 - b. Stop work order may be issued earlier than described IF there is a clearly documented immediate threat to water quality.
 - c. Process may not be imposed greater than 30 days after the day on which the MS4 provides the notice of violation.

Question - Referring to written warnings. I have several contractors that ignore their emails. So does a text message count? Do I need to take a handwritten letter? What defines written warnings?

Jeanne Riley - Written means it needs to be in writing. However, you normally provide your inspection report. The initial written warning, step one, would be a description of the violation in your inspection report that you provide to the operator. It's the issue with documentation and I know operator's contractors tend to use the phone more than they do email. You need to have a trail of calls and emails.

Question - Is it the same step 7 process, for more egregious violation. Example, construction without a permit.

Jeanne Riley - You can see the second bullet.

Question - That would be an immediate threat to water quality?

Jeanne Riley - It would have to be an immediate threat to water quality. Operating without a permit you'd need to follow the 7 steps unless you feel not having the BMP on site was an immediate threat to water quality. Without immediate threat this would not be justified.

Kelsey Christiansen - If they start work without a permit, and they don't have a building permit. The building department can still stop work, right?

Jeanne Riley - This bill pertains to construction stormwater. I'm sure there was legislation passed on the building system, too.

Potential Next Steps – USWAC MS4 Unification Sub-Committee

- Revise ordinances if necessary and SWMP.
 - We have planned to start work with the Unification Subcommittee. This is to start working on some consistency process with MS4s, and some developed tools that everyone can use. The big change that I see is the possibility of revising ordinances which, I know, is an awfully big deal for cities and counties. You're going to have to look at your own ordinance. One city stated, they never issue fines, but they do have them in ordinance, they just never use them. The point is that there's consistency across the way and as far as enforcing this permit. You will need to start work on that soon if that's something you need to do. And then, of course, updating your stormwater management plan and as far as required to have an escalating enforcement policy.
- Develop Statewide Construction BMP Manual
 - The possibility of developing a statewide construction BMP manual. A lot of people use the Salt Lake County manual, which is old, and I think that's something that this group could maybe take on. That's something that everyone could post and that could be the way that we all comply with that requirement.
- Standardize MS4 Construction Stormwater Websites
 - I think it's a great idea to standardize websites. This way every MS4 is listing all their construction requirements in the same place. I think that would go a long way towards what we hear are the issues associated with confusion among working city to city.
- Develop standardized SWPPP review checklist/inspection SOP/form.
 - With this we could develop some standardized tools for SWPPP review checklist, SOPs, and forms.

I want to talk about that today and get as many MS4s input into what they think they need to comply with this. I suggest that we work together to try to develop some of these tools as a group.

Online question - Chronic inspection. So would that essentially be the contractor would have to photograph every square inch of the site that's under construction, like every inch of silk fence, every inlet protection. That's what we would typically look at, we would do an inspection. So is that the bill's intent is for them to either photograph it or fly a drone over the entire site and get the entire site. Is that the intent?

Jeanne Riley – Yes and your responsibility to review that to make sure it's up. I'll tell you right now where this is going. I think maybe I've shared this with some of you. There's quite a lot of interest in using AI technology for doing the site inspection. There's already a group at Utah Tech University that is looking into this. So, the idea that you can feed an AI tool these photographs and they can be evaluated. Somewhere down the future, it doesn't exist now, but at some point, there's an interest.

Bart - One of the first slides you talked about the MS4s can't be more stringent than the state NOI, or something in that regards right? There's MS4s that requires that I do a city NOI on top of the state NOI. Is that part of that?

Jeanne Riley - There's no MS4 requirement that you have your own permit, that would be a city requirement. The only MS4 requirement is that you make sure that operators in your city have the state construction stormwater.

Bart - So with this bill passing, that city can't require that city and NOI anymore?

Jeanne Riley - I would think that that is probably more stringent. But I think you need to have your city attorneys look at that. Not certain.

Bart - I've always thought it was just duplicate. It's the same similar you must do exactly the same thing as the State NOI. Why are we doing two NOIs? And we must renew it every year and everything like that.

Jeanne Riley – That may be the case in your city but in some cities, they use their own permit for not only the threshold for the state permit, have they used it for smaller sites. That's common. So, any construction site needs to have a city storm water plan. I can't really speak for every city because it's completely different. All I can say is that you're required to have operators keep current their construction general or CCP.

Question - On the same lines as the MS4s can not to be more stringent than the Federal. For instance, the long-term BMPs where the State has 80th and federal facilities 90th.

Jeanne Riley – That's a federal requirement and improvement for most requirements is going to be another requirement system. If there are other federal regulations that require you to be more strict, that's okay. That's my understanding. (remainder of this conversation is inaudible)

Online - If they are using approved BMP's, we cannot impose a stop work order even after the 7-step process. Is that correct?

Jeanne Riley – I Have to look at the nuances of the way this is written. If the operator selects a preferred BMP off the list that you must publish then they verify it's implemented installed, maintained properly then no. So, this is something that I pushed for originally, but the legislation said, if an operator selects a BMP off the list, then there's no enforcement. I had to remind them that selecting a BMP is only half or not even half of what we do here. We make sure that they are installed properly, that they're working, that they're maintained. That's what they're checking in every inspection.

Kelsey Christiansen - I have a question along those lines as well. This is where it was brought up before. If they choose a BMP and they implement it and they maintain it but it's not working properly for the conditions, what action can we take there?

Jeanne Riley - So do you see how it says they need to select the preferred BMP for the site conditions and implement and maintain them appropriately? So, if the BMP is not right for the site conditions, then I think we can request a change.

Dclark - Maybe we should see about changing that word preferred to be required.

Jeanne Riley - This is the kind of thing that we need to do until the next session in January is wordsmith this to make it work. The bill is going into law, but we will have an opportunity to modify. I'm nearly sure that we will. If we lead out with language that is going to work and meet the intent of the regulations, then we could get a chance to change the wording. These are the things we need to hear and then we need to work on this committee.

Tanon – The subcommittee is meeting after this. The zoom link is in the chat if for any reason if that doesn't work, please email me your email. Otherwise, we will be upstairs in the Red Rock.

Jeanne Riley - In terms of other things going on at the division. We are renewing 2 permits right now that you'll be interested in, one is construction de-watering, and the other is CGP. CGP expires June 30th, we're looking to renew it on July first. There are not a whole lot of changes proposed, adding in training, and requiring NeT. The use of NeT, we're pretty much already there. Everyone needs to be using it. There are limitations. If you don't have internet access or don't have access to your computer, literally you have to request to not use it. Not

many changes to the CGP. We have a stakeholder draft out to you all. So again, you've got to read the bill and try to organize it in a way that you understand.

6. USWAC Subcommittees Updates

- **Long Term Storm Water Management**: I mentioned last month that we would make the templates available on APWA web page. The web manager is having difficulty making it work on all platforms. For now, just grab those templates from the link we gave you last month. They're under the "about" tab then "Committees and Task Forces" and then you'll see "USWAC". For now, just pull the link we gave you last month. If anyone has any questions, you're always welcome to reach out to someone on the committee. If you have suggestions, you can even send suggestions to us, and we'll just put them on the list to evaluate and consider at the next meeting.
- **Training Programs**: The system is online and running. The average speed to take the test is 61 min. Currently have 1,118 RSI certified members and 133 RSW certified personnel. Since 2014, over the last 10 years we've trained 2,831 personnel. Some of the feedback is it's working well and went smoothly. Working on a new certificate that will electronically update the signatory and chairman because they change every year.
 - Tanon - They were having trouble just changing it from PowerPoint to the PDF media.
- **MS4 Unification Committee**: Meeting after USWAC in the Red Rock conference room.

NEWS & UPDATES

7. **APWA News and Updates**: Trace Robinson – Call for presentations for fall conference this year. If you want to showcase some of the things you've done in your MS4 whether enforcement or whatever it is that you're doing.
 - a. April 3rd an RSW class will be held on the Taylorville campus, that's Utah States extension, and you can go to their website.
8. **Stormwater Coalitions News and Updates**:
 - **Salt Lake County - Josh Mikel**: No updates
 - **Golden Spike – Greg Seegmiller/Sam Wakeham**: Had MS4s contractor training last month, it was a success. Good turnout.
 - **Summit County - Kelsey Christiansen/Megan Haden**: Planning our annual trails, trash, and tunes event, it's going be on May 11th and we are going have Pixie and the Party Grass Boys. If anyone knows them, it's a fun band. But come up if you want to, it's at the Wanship Trailhead.
 - **Utah County - Scott Bird/ Brent Dunkley**: Not present
 - **Davis County – Steven**: Also had the stormwater coalition contractor training with Golden Spike last month with good turnout, so that was a success.

- Southwest UT – Paul Mogle: No updates.
- Cache County – Colton Love: No updates.

9. Other topics/ business: UDOT currently has a Region 4 Stormwater Program Coordinator Environmental Scientists 3 position with multiple possible locations in region 4 posted on the state jobs site. Later today they will be posting 4 stormwater specialist positions, one for each region of UDOT Environmental Scientist 2.

10. Public comments or questions:

11. ADJOURNMENT – Motioned Matthew Hendrix, Seconded Heather Wadman

Note: This link will take you to the new USWAC webpage. You will find current meeting minutes, Agendas, etc. [Utah Storm Water Advisory Committee \(apwa.net\)](http://apwa.net)

Next meeting: Wednesday, April 10, 2024