

Comments Addressed during Stakeholder Review Period Prior to Public Notice - March 29, 2019

Comment #	Person	Section	Stakeholder Comment	DWQ Response
1	Ross Ford - Utah Home Builders Association	Fact Sheet - 2019 Construction Storm Water General permit	Page 2 of the fact sheet states changes from the earlier CGP will be identified with Parenthesis. The parenthesis do not appear in the draft copy of the permit. Does the fact sheet cover all changes? I have based most of my comments from the fact sheet.	<p>The reference to items in the parenthesis is to permit sections of the permit. This was provided to assist in a side by side comparison of previous permit with this one since reformatting has moved the location of sections. We've updated the fact sheet to further clarify this change by placing references to the current permit revision in brackets [] and permit sections from the old permit in parenthesis ().</p> <p>The fact sheet does not list every change. There have been numerous changes to formatting and wording to better match the layout of the EPA permit. DWQ has only identified the changes that are believed to affect operation and requirements of the permittees.</p>
2	Ross Ford - Utah Home Builders Association	<p>Fact Sheet - Part 1</p> <p>The statement that no permit is necessary if a construction site contains all storm water with no risk to groundwater has been removed (1.0). This alternative was not being used and there was confusion over what situations could qualify.</p>	<p>Before this is removed can we better understand why it is not being used? This seems like an important alternative and one that could effectively accomplish the desired outcome. Especially with the implementation of post construction containment there may be many sites that are developed in such a way that post construction grading practices are performed at the beginning of the project and all water is contained from initial disturbance.</p> <p>Has this practice been avoided because MS4's are worried about compliance and enforcement actions from DEQ?</p> <p>Is this a practice that is acceptable by EPA if contractors use it?</p> <p>The state of Utah should have access to every available option and all enforcement personnel should be trained on how to properly evaluate these methods and given a safe harbor if done within approved standards.</p>	<p>The fact sheet has been updated to better explain the removal of this option. The burden of proving that there would be no discharge of pollutants to groundwater or surface waters made this impractical. The use of an Erosivity Waiver is still available for qualifying sites that pose little risk to water quality. This change was driven by DWQ to more closely match EPA's permit requirements, which do not have allowance for this practice. No concerns were received from MS4s regarding compliance or enforcement actions from DEQ over this issue.</p>
3	Ross Ford - Utah Home Builders Association	Fact Sheet - The requirement that the permitted site contact the local MS4 to request a final inspection has been removed (1.4.2.a.ii). MS4s are responsible for letting operators know how they would like to be notified of completion per their Municipal Separate Storm Sewer System (MS4) Permit.	This needs to be a standardized. Contractors can not be held to different standards and meet different requirements in every municipality. If a final inspection is required it needs to be specific and predictable. If it is important for MS4's to have flexibility, there needs to be limits put in place to insure an effective and simple compliance path with out over regulation.	<p>This requirement was removed to reduce the burden on contractors. The contractor is required to submit a Notice of Termination to DWQ when the site has been completed. This updates the status of the permit in the State Storm Water Database. MS4s have access to the database and can check to see a final inspection is needed. Some MS4s elect to use the database instead of requiring the contractor to also notify them. DWQ therefore does not want to require additional notification to the MS4 if it is not part of the MS4's process or requirements. The MS4 permit requires MS4s to document their procedure for notification in their Storm Water Management Plan (SWMP) which is accessible to the public and to provide these procedures to the construction operator/owner prior to active construction beginning.</p> <p>While there may be some differences in how a MS4s is notified of the need of an inspection, the final inspection is always conducted and the Permit provides the minimum requirements that must be met during the inspection. A form for these inspections, also called Notice of Termination Inspections, is available for MS4s to use to help standardize this process and includes checkboxes for the items to be inspected. In this way the final inspection is specific and predictable.</p>
4	Ross Ford - Utah Home Builders Association	<p>Fact Sheet - The statement allowing automatic coverage by this permit of permits existing under the previous CGP (1.4.3) has been removed.</p> <p>Acknowledgement of the revised permit language and requirements may be required prior to coverage under this CGP.</p>	Why make the permitting process more difficult? Unless a project clearly moves outside the new permits parameters, why not have it automatically covered. This just increases paper work and causes undo hardship with no positive impact to water quality.	Automatic coverage without some acknowledgement from the permittee could result in unintentional non-compliance by a permittee that has not been made aware of the changes in the new permit. We have reworded this section to allow for automatic coverage with the caveat that acknowledgement may be required and permittees will be notified if any action is needed by them. We plan to email all permittees to notify them when the revised permit becomes effective as well.

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5	Ross Ford - Utah Home Builders Association	Fact Sheet - SWPPP (1.5.3). These requirements were added to increase the public's ability to understand the project and communicate with operators when there are concerns.	Have there been complaints or problems, or is Utah out of federal compliance? Unless the EPA is requiring this or we have experienced significant statewide problems there should not be additional requirements placed on contractors.	These modifications have been removed and now match the previous permit. The requirements were originally added to more closely match the EPA permit and to increase accessibility of information. It was not intended to be a burden or cause additional issues with public access.
6	Ross Ford - Utah Home Builders Association	Fact Sheet - The requirement to adjust storm water control and management strategies throughout the project to match the needs for each phase has been added (2.1.3.b). This has always been the intent of the permit and was added to formalize the requirement.	Does this require new or changed plans throughout the construction process? The idea a plan should be updated and adapted to changing circumstances as construction progress is an effective means to control potential problems. Mandating it clears a path for MS4's to require multiple plans be produced regardless of need and signals to them that if they are not requiring this, they will be out of compliance and face action from DWQ. A clear understanding that storm water control is an evolving activity and has the expectation of updates and adaptations when needed is sufficient to protect the environment. A new requirement will undoubtedly trigger unneeded additional work and expense.	Clarification has been added to the fact sheet which describes the intent of the section and makes it clear that separate plans or modifications are not needed if no changes are necessary.
7	Ross Ford - Utah Home Builders Association	Fact Sheet - Fact Sheet - The requirement to comply with BMP maintenance recommendations from the manufacturer has been added (2.1.4) to encourage better maintenance practices.	If a BMP is in compliance with manufactures recommendations but it fails or functions poorly, will the contractor be given safe harbor? If a contractor makes an on site determination to deviate from recommended practices in an effort to achieve better performance that should be applauded. A stiff regulation limits creativity and creates an atmosphere of following the letter of the law rather than seeking good solutions. Inspectors are obligated to enforce all requirements, if the recommendations are not well suited for the current application the contractor will be required to install and expensive and ineffective BMP that complies with the permit but fails to protect water. Is this required by EPA?	The language for this requirement came from the EPA permit. It has been modified as follows: "Follow recommended maintenance recommendations from the manufacturer or utilize good engineering practices based on site conditions and document deviations from manufacture recommendations." DWQ acknowledges that BMPs may fail even if they are installed per manufacture recommendations or according to good practices. A failing BMP will need to be replaced, however the type of replacement BMP will not be dictated by EPA, DWQ, or MS4s. Inspections from any of these entities would indicate that a problem exists. The contractor would still be allowed to determine what type of BMP would be appropriate to replace it. DWQ does not seek to enforce on failing BMPs if the contractor has followed the permit, selected an appropriate BMP, and worked in good faith. Failure of a BMP in this situation would result in a noted deficiency, but not enforcement.
8	Ross Ford - Utah Home Builders Association	Fact Sheet - Dumpsters are now required to be closed when not in use and at the end of the business day (2.3.3.e.2). For dumpsters without lids, a cover or similarly effective means to minimize the discharge of pollutants must be used. This requirement matches the EPA's permit and reduces the exposure of waste materials to storm water	This requirement is very burdensome and will likely produce a negative effect. What is the definition of "not in use" dumpsters are used periodically throughout the day? Does this mean it can only be uncovered when someone is actively placing waste in the dumpster? Without proper definition contractors will not know how to stay compliant and enforcement personal will not know how to properly enforce. The unintended consequence of a covered dumpster is waste dropped on the ground, thrown on top of the cover or left piled in the structure. This creates a safety hazard and increases potential water contamination. Is there evidence demonstrating waste routinely blows out of dumpsters and into water sources. I suggest the bulk of blowing trash are items that were never placed in the dumpster. This requirement is very costly and will be ineffective.	This requirement was added to match EPA permit requirements and reduce blowable trash as well as prevent contact of storm water with waste. DWQ acknowledges the burden of covering large dumpsters and unintended consequences. This section has been modified to require that just blowable or pollutant producing waste be covered or contained. The operator can select how they want to meet this requirement. It can be addressed with bagging waste, using lids, using non-leaking dumpsters, or another control.
9	Ross Ford - Utah Home Builders Association	Fact Sheet - Washouts are now required to have a sign to designate their use (2.3.4.c). This clarifies previous confusion over the requirement to "designate" a washout area	Washouts are readily identifiable. Signs are expensive to produce and impossible to maintain on constructions sites. Has there been reported problems of ready-mix trucks not being able to find the washout or washing out in the wrong container? Unless there is an identifiable problem there should not be additional requirements. Is this an EPA requirement?	The requirement to provide a sign was not an EPA requirement and has been removed. The term "designate" has also been changed. This term previously caused confusion over how an area was to be designated and whether a sign was required. In regards to washout activities the permit now reads "to the extent feasible, determine areas to be used for these activities and conduct such activities only in these areas."

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10	Ross Ford - Utah Home Builders Association	Fact Sheet - Inspection frequency reductions have been added (4.4.2) as an option for arid and semi-arid locations where the frequency of storm events is reduced.	This is an effective policy; however, It would be helpful to broaden the definition of "Arid" or provide a path for fewer inspections in "Semi-arid" areas as well. There are many projects built in areas that are not currently defined as arid, but the entire project will be completed with no storm events. The burden of regulation should be focused in areas where it is needed and will protect water.	In situations where an entire construction project can be completed with no storm events it is recommended that you see if an Erosivity Waiver would apply. The calculations to qualify for this waiver take the location, duration, and expected precipitation into account and could allow these low risk sites to be completed without needing to obtain a permit.
11	Ross Ford - Utah Home Builders Association	Fact Sheet - The situation allowing for suspension or reduction of inspections based on frozen conditions has changed from an expectation of 30 days of frozen conditions (4.1.4.c.i.1/4.1.4.c.ii.1) to an expectation of at least three months of frozen conditions (4.4.3.a.1/4.4.3.b.1) to match EPA's permit requirements	This section requires inspections to resume if there is a thaw. Having a three month time frame in areas where the ground will stay frozen is reasonable. A reduction in this time just adds cost with no benefit.	Weather is unpredictable. If frozen conditions are only expected to continue for 30 days it is likely a surprise thaw occurs or conditions change. The reductions in this section are intended for high elevation sites where frozen conditions and snow are more consistent and can make access difficult and inspections impractical. If a site intends to shut down for the winter and is in an area that does not have 3 months of expected frozen conditions it can still reduce inspection frequency if temporary stabilization is completed.
12	Ross Ford - Utah Home Builders Association	Fact Sheet - Enabling access to shared controls during a site inspection was added (4.8) to allow EPA, DWQ, and MS4s to conduct complete oversight inspections.	Does this section pave the way for more frequent and easy oversight by multiple enforcement personnel? In other words, the contractor can now expect inspections from the MS4, DWQ and the EPA at any time. It is more cost effective and less of a burden for the builder to just deal with one enforcement agency. If DWQ has authority to override MS4 decisions and EPA has the authority to override DWQ decisions, there may be value in having EPA conduct all inspection and eliminate the inspection personnel who lack authority for final decisions. If a project will ultimately be held to the standards of the EPA inspector and MS4 or DWQ approved BMP's could be deemed insufficient and fines levied, it would be better to know that and comply with those standards from the start.	The previous permit required that access to the site be provided to inspectors (EPA/DWQ/MS4). This section simply extends that requirement to allow inspectors to enter areas that are considered "shared controls". It does not increase inspections and is not suggesting that multiple agencies are to be inspecting the same site. Utah is a delegated State by the EPA. This gives Utah the authority to conduct inspections and implement its own storm water permits. In locations outside of MS4s almost all inspections will be conducted by the state. EPA conducts inspections to assist Utah when needed and to check that the program is correctly being managed. Within MS4 boundaries the MS4 is the primary inspector and has the authority to inspect and enforce. The State conducts inspections within MS4 boundaries when requested by an MS4 or as a check similar to EPA oversight for the State. All three entities work together to ensure permit compliance and communication is kept open to avoid unnecessary overlap in inspections. DWQ does not intend to override site specific decisions made by an MS4. The MS4 will be contacted by DWQ if a site inspection does reveal conflicts in what DWQ expects and the MS4 is requiring. It is understood that the permit does have areas where judgment calls need to be made. DWQ is working to increase education and outreach to discuss these issues and improve understanding and unity in these cases.
13	Ross Ford - Utah Home Builders Association	Fact Sheet - Corrective actions that require new or replacement controls or significant repair are now required to be completed within seven days when feasible (5.2.3). This matches the requirements in EPA's permit and ensures corrective actions get addressed in a reasonable time period.	How is "feasible" defined? Who makes the decision if it is feasible or not? Is cost a factor? This sort of requirement cannot be a subjective standard. Enforcement personnel are going to gravitate to the most restrictive solution to insure they are not found out of compliance by the agency watching over them.	Examples of infeasibilities have been added to this section to help provide guidance and include: availability of materials, excessive cost to expedite shipping or activities, and lengthy installation times. If the contractor does not feel that seven days is feasible, for these or other reasons, then they must document why it is infeasible and provide a reasonable correction schedule.

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14	Ross Ford - Utah Home Builders Association	Fact Sheet - Corrective actions that have been completed are now required to be documented within 24 hours (5.4.2.) instead of the 7 day window that was previously provided (5.4.2). Corrective actions must also be signed (5.4.3). This matches EPA's permit requirements and encourages immediate documentation of changes in the SWPPP so they are not forgotten.	This needs a path for electronic verification. If corrections are documented with geo-located photographs and the individual taking the photos electronically identified that should meet the requirements for verification and signature. Electronic inspections and verifications is the best way to meet EPA's permit requirement of immediate documentation because it uploads and documents all action as it happens, however the MS4's are reluctant to embrace this technology until there is clear acceptance from DWQ. Specific language in the permit is needed.	<p>This permit part refers to the operator's documentation that corrective actions have been completed. It does not apply to the MS4's verification that the work has been completed. That would be addressed in the MS4 permit, not the construction permit. There is no submittal requirements for contractors. However, documentation must be made available upon request.</p> <p>To facilitate electronic tracking of corrective actions by the operator, this section was modified to remove the requirement for signatures. There are no specific inspection requirements for the verification of corrective actions by the operator that would hinder the use of electronic verification for this purpose.</p>
15	Ross Ford - Utah Home Builders Association	Fact Sheet - The requirement for appropriate personnel involved with storm water to be trained on the permit deadlines associated with installation, maintenance, and removal of controls and stabilization has been added (6.3.1) along with the requirement for personnel involved with storm water to have easy access to the applicable portions of this permit and the SWPPP (6.4) These requirements match the requirements of EPA's permit and ensure personnel are provided with the necessary resources.	Does an online record meet the requirement of "easy access"? If electronic inspections are done the record is uploaded immediately and available to enforcement personnel. A clear statement of acceptance will ease fears of MS4's and contractors and encourage a more efficient inspection process.	Easy access does include online records. This Permit Part specifically mentions that either electronic or paper copy access is acceptable.
16	Ross Ford - Utah Home Builders Association	Fact Sheet - New requirements were added for those who write SWPPPs (7.2). This requirement applies only to those developing SWPPPs for sites greater than 5 acres or sites with challenges such as steep slopes or nearby surface waters. The quality of construction site inspections improved substantially when the inspection certification program began with the past construction permit. The additional requirements to raise the standards for SWPPP writers (in the CGP) are designed to bring better storm water control management to challenging or large construction sites.	<p>Is this an EPA requirement?</p> <p>If SWPPP's are written by "qualified" writers will the enforcement personal still have authority to override and force changes to the SWPPP? A qualification has no value if their plan is easily overridden. Enforcement personnel should insure the plan is followed. This section needs to clearly define the scope of enforcement personals authority.</p> <p>We would like to get the "Home Builders Association of Utah Strom water Quality certification" added to the list of acceptable qualifications.</p>	<p>This is not an EPA requirement.</p> <p>Enforcement personnel will still have the authority to require modifications to the SWPPP if it does not meet permit or local requirements. Enforcement can be taken when any aspect of the permit is not met. We look forward to reviewing the Home Builders Association of Utah Storm Water Quality Certification for content once it is completed. If the content meets the certification requirements we will provide you with a letter documenting our approval.</p>
17	Ross Ford - Utah Home Builders Association	Fact Sheet - The language describing final inspections after submittal of an NOT has been removed (8.3). The final inspection is to be conducted by DWQ or the local MS4 to confirm that the permittee has completed the requirements of 8.2. The inspection is not the responsibility of the permittee and therefore has been removed.	It would be useful to provide a path for electronic inspection. As with other storm water activates this is easily photographed and tracked. The use of electronic inspections would reduce the requirement for inspectors to fiscally go to each site, freeing up time, reducing the need for vehicles, lowering costs and providing an easy path for compliance.	<p>As was stated in the fact sheet, the requirement for an NOT inspection is not a requirement of the Construction General Permit. It is a requirement of the MS4 permits.</p> <p>If electronic inspections are to be added to a storm water permit it would be in the MS4 permits.</p>

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18	Ross Ford - Utah Home Builders Association	Fact Sheet - Additional comments;	<p>There needs to be a clear path for electronic inspections stated in the permit. A quicker more efficient inspection process is critical. Builders and MS4s agree they need assurance electronic inspections will comply before they make a change.</p> <p>There are places in the permit that refer to methods of measuring precipitation. There are sites that calculate precipitation for exact locations rather than a report from the airport or some other fixed location. Are these more advanced sites acceptable for measurement of precipitation, if so can it be state in the permit?</p>	<p>The use of electronic inspections by MS4s for oversight inspections is not addressed in this permit and would need to be addressed within the MS4 permit. This permit does address the self inspections that are required to be completed by the contractor. We have specifically allowed for electronic documentation of self-inspections.</p> <p>Part 4.2.2. of the permit states that the use of a properly maintained rain gauge to determine local precipitation is acceptable.</p>
19	Ben Hansen - Ivory Homes	1.4.2	<p>How will covered be extended to all current and existing NOI permits from the current CGP permit? I understand that there may need to be new NOI permits issued and signed, but I don't think it is reasonable for current permits to be expected to pay the \$150 fee again. I think permits need to be extended to the usual 1 year expiration from the date it was filed.</p>	<p>The process to extend coverage under the new permit is still being finalized. It may require confirmation in the database that you are aware of the new permit language and requirements. Regardless of the process used, there will be no additional fee to extend the permit expiration date to a year from the start date. DWQ agrees that all permits should receive the full year of coverage that was paid for even if it spans the coverage period of two separate permit revisions.</p>
20	Ben Hansen - Ivory Homes	1.5.3	<p>I don't think that it is reasonable for the public to immediate access to SWPPP documents that are controlled electronically. I don't believe that the general public will gain an understanding of SWPPP documents on their own. If a site has a printed SWPPP document on site, the permittee would be present with a member of the public to explain what is verbiage and terminology within a SWPPP document. I understand that MS4 inspectors want immediate access and this can be given to them during a preconstruction meeting. I have had good relationships with those MS4 inspectors as well as have gotten access to State and EPA inspectors within reasonable timeframes in the past and feel that I can continue to do so without having to post a link to the SWPPP documents on the site notice board.</p>	<p>The permit has been modified to remove the requirement that the SWPPP location be posted. It must still be readily available to inspectors during a site inspection.</p>
21	Ben Hansen - Ivory Homes	2.3.3.e.2	<p>What is the intent of the required lid on dumpsters? Is it to keep trash from blowing, or is it to keep pollutants from leaking out of the dumpsters? My understanding is that it is to keep pollutants from leaking from the dumpsters. If it is to keep debris from blowing, blowable debris can be bagged and placed in a dumpster without a lid to prevent it from blowing and leaving the jobsite. On our jobsites we have multiple types of dumpsters. All of our smaller 8yd dumpsters have lids and this should not be a concern for this requirement. However the 20, 30 and 40 yard slide off style dumpsters throughout the Wasatch Front and St. George do not have lids on them. These are just too big of a dumpster to have lids on them and I don't know of a company that provides these slide off dumpsters with lids. Compliance on these dumpsters will not be feasible because lids are not provided.</p>	<p>This requirement was added to match EPA permit requirements and reduce blowable trash as well as prevent contact of storm water with waste. DWQ acknowledges the burden of covering large dumpsters. This section has been modified to require that just blowable or pollutant producing waste be covered or contained. The operator can select how they want to meet this requirement. It can be addressed with bagging waste, using lids, using non-leaking dumpsters, or another control.</p>
22	Ben Hansen - Ivory Homes	5.4.2	<p>Site supervisors are not always present on every site daily. When there is an action item corrected it may not be feasible to document the completion within 24 hours of its completion. I would like to see the requirement to remain the same with the 7 day window, as in the previous CGP. If not a 7 day window perhaps within 24 hours of observing its completion.</p>	<p>The permit has been modified to allow documentation to occur within 24 hours of observing the completion.</p>

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23	Ben Hansen - Ivory Homes	7.4.1	Related to my comments of 1.5.3, if think with the removal of the 30 minute timeframe it would not be unreasonable to require that access be given to MS4s prior to commencement of earth disturbing activities. If members of the public would like access to the SWPPP then a control of having them contact the name on the SWPPP sign is a reasonable request. Jean, think of the member of the public in Farmington at our project there that ran everyone through the ringer, including the city and state. Imagine if he or others could get their hands on these documents without proper knowledge already established.	The SWPPP is required to be reviewed by MS4s prior to earth disturbing activities through the MS4 permit. This effectively allows access prior to earth disturbing activities. It is agreed that providing SWPPPs to the public may cause additional confusion and this requirement has been removed.
24	Jacob Thompson Barr Engineering	1.1	Change the reference for the additional buffer guidance from Part 10 to Appendix A. Provide and maintain natural buffers and/or equivalent erosion and sediment controls when a water of the state is located within 50 feet of the site's earth disturbances. Additional guidance for buffers is provided in Appendix A (not part 10). Add reference in Section 2.2.1 that there are exceptions to the Compliance Alternatives: "2.2.1 b. Exception to Compliance Alternatives. See Appendix A for list of exceptions to the compliance alternatives to this section." Or similar language to make it clear that the permit does allow some exceptions.	Corrections made to all sections, thank you
25	Jacob Thompson Barr Engineering	2.3.3.a	Add the underlined language: "For building materials and building products ²¹ <u>that have the potential to be released with storm water discharges</u> , provide either (1) cover (e.g., plastic sheeting, temporary roofs) to minimize the exposure of these products to precipitation and to storm water, or (2) a similarly effective means designed to minimize the discharge of pollutants from these areas." Building materials and products that are designed to be exposed to stormwater or do not contribute to a violation of water quality standards should be excluded from this requirement; this is consistent with how the Utah Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities handles significant materials that have the potential to be released with storm water discharges. In the footnote, mulch, gravel, copper flashing and roofing materials are examples of materials that are not significant materials. Other examples could be uninstalled windows, doors, transformers, roofing material, siding, and the like.	Modified to include only products with the potential to release pollutants

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26	Jacob Thompson Barr Engineering	2.3.3.e for construction and domestic wastes	Add the underlined language: "(2) <u>For waste bins that have materials that have the potential to be released with storm water discharges</u> keep waste container lids closed when not in use and close lids at the end of the business day for those containers that are actively used throughout the day. For waste containers that do not have lids, provide either (1) cover (e.g., a tarp, plastic sheeting, temporary roof) to minimize exposure of wastes to precipitation, or (2) a similarly effective means designed to minimize the discharge of pollutants (e.g., secondary containment);" Barr recommends excluding construction and domestic wastes that are designed to be exposed to stormwater and allowed to be in uncovered dumpsters; this is consistent with the industrial MSGP. Examples of construction wastes that would not be a significant material could be damaged BMPs, dried concrete poop and concrete material, uncontaminated pallets and blocking, and uncontaminated scrap steel.	This section has been modified to only apply to waste material that has the potential to release pollutants but also to allow other options than covering and lids.
27	Jacob Thompson Barr Engineering	4.4.3. Frozen Conditions	Based on our experience, we recommend removing the last criteria: "All disturbed areas of the site have been stabilized in accordance with Part 2.2.14.a." Barr has experience with many multi-year projects that work until frozen ground conditions causing some areas to therefore not have temporary stabilization as defined with Part 2.2.14.a. standards (besides frozen ground conditions). Straw mulch, erosion control blankets or hydromulch would not be able to be installed and/or effective during frozen ground conditions and it is not reasonable to dump gravel everywhere. Removing this requirement would be protective, because there is already the requirement of resuming inspections during hawing conditions as defined in Part 10 of the permit, which would immediately identify any erosion concerns. Currently as written, projects that do not fully stabilize in accordance with Part 2.2.14.a. would have to perform a normal inspection schedule when there is snow cover on the ground and no construction activity is taking place.	Often thawing begins and sites are not prepared for the thaw. The goal of this section is to have temporary erosion controls in place prior to frozen conditions so that when the thaw occurs the site is prepared. From additional conversations with Mr. Thompson it was revealed that they are particularly concerned on the application of this exception for linear projects where construction continues throughout winter. Inspection reductions for linear sites would be better used in this case. The frozen conditions section has been modified to allow for sites that unexpectedly hit frozen conditions prior to full stabilization to still suspend inspections.
28	Jacob Thompson Barr Engineering	7.3.7(iii) SPCC plans	Add the underlined language to make it easier to comply with the permit requirements: "You may also reference the existence of Spill Prevention Control and Countermeasure (SPCC) plans developed for the construction activity under Part 311 of the CWA, or spill control programs otherwise required by an UPDES permit for the construction activity, provided that you keep a copy of that other plan on site or <u>electronically available</u> ."	The suggested language has been added. Thank you.
29	Jacob Thompson Barr Engineering	7.4.1 On-site availability of your SWPPP	Amend the following sentence to allow for electronic SWPPPs: "You must keep a current copy of your SWPPP at the site, <u>available electronically</u> , or at an easily accessible location so that it can be made available at the time of an on-site inspection or upon request by DWQ; the EPA, or an MS4	The suggested language has been added. Thank you.

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30	Brandon Harris - EDGEHomes	2.3.3.	I understand the permit must change from time to time, my only concern with the new draft is 2.3.3 regarding covered dumpsters. I feel this will be very difficult to monitor and maintain compliance with. While I understand the thinking in it, its just very hard to comply with when so many dumpsters do not have such device attached. I can for see cost increases with the companies and the difficulty training late working trades to close said containment. I feel we should more emphasize contained ways of trash for the dumpster such as bagging blowable trash. Its my hope you and your team can see the difficulty in this situation on compliance. Other than this new requirement, all others are understandable and easy to comply.	Thank you for your comment. We've received several other comments on this requirement and acknowledge that the covering of large dumpsters can be burdensome. It was added to match EPA permit requirements and reduce blowable trash as well as prevent contact of storm water with waste. We are currently working to modify this section to require containment or cover only for blowable or pollutant producing waste (food waste, chemicals, etc.). We would let the operator decide what form of containment/cover they want to use, possibly mentioning options such as bagging of waste, lids, or use of non-leaking dumpsters.
31	Chris Ennes - Ames Construction	Page 8: 2.2.1 and Page 9: 7.3.5	Should part 10 actually be Appendix A?	This was corrected. Thank you.
32	Chris Ennes - Ames Construction	Page 9 footnote #8:	Consider replacing hydroseeding with hydromulching. Seed is expensive and because of our climate would more than likely not germinate to provide substantial erosion control benefit for a temporary stockpile protection application.	Hydromulching was added.
33	Chris Ennes - Ames Construction	Page 12: 2.2.14.b(i)	Please consider expanding upon this section or adding as a note for further clarification by adding the following: "If the pre-existing (or pre-construction) vegetative coverage is 35% , 70% of 35% would require 25% total cover for the final stabilization criteria to be met. Conversely, on a playa or similar barren land use area with no vegetation, percent cover of vegetation is not considered as pertains to this section so a vegetative standard for final stabilization is not required." Years ago I saw this I think in Wyoming or	This section has been reworded to clarify the requirement. To prevent the permit from becoming too wordy we try to avoid too many specific examples. This type of language may be more appropriate within our FAQ file and we will look at adding it there.
34	Chris Ennes - Ames Construction	Page 15: 2.3.3.f	Please include a distance to define "away" relative to waters of the state. I have a project now that I argue with my guys that the toilet is too close but there is no guideline. Would be nice to define it similar to the MS4 later in the same sentence.	There is no specific distance away from Waters of the State that a toilet must be placed. This is site dependent and may change depending on the types of controls used. This section has been broadened so the 10 foot minimum distance from gutters also includes any other conduit to a Water of the State.
35	Chris Ennes - Ames Construction	Page 35: 8.2.2	Please mention the very typical situation where a General Contractor (operator) is being relinquished by the owner (operator) such as a public works entity like a city or UDOT. Harry and I made a form to address this situation in which the NOT cannot be filed but the GC contractual commitments have been met. The owner would not have to file a new NOI as they are listed on the NOI already. This form covers this situation well.	The transfer form is not mentioned here because the coverage is not "terminated" it is simply transferred. Added language to the permit to indicate that termination is not required if a transfer form has been completed to transfer responsibility to a new operator.
36	Chris Ennes - Ames Construction	Figure A-1	Caption states Water of the US where everywhere else it's of the state.	Corrected.
37	Chris Ennes - Ames Construction	A.2.3	Typo first sentence- the rest of the section I skimmed through – it's a lot to take in	Typo corrected.
38	Tom Beesley - Riverton	2.1.1.b	Design to what storm event probability?	Sediment ponds have a 2-year 24-hour design requirement as stated in 2.2.12. Most other BMPs are not designed to a specific storm events. Site conditions, local requirements, and manufacture recommendations would dictate what is expected.
39	Tom Beesley - Riverton	2.1.4.a	Suggest adding; "This part expects regular maintenance regardless of whether the problem was recognized by an official written inspection or just a daily observation of occurring problems."	This section has been modified to specify the intention of the requirements. Now states "Regular maintenance is expected and is not limited to response actions from inspections or identified problems."

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Comment #	Person	Section	Stakeholder Comment	DWQ Response
40	Tom Beesley - Riverton	2.1.4.b, now 2.1.4.c	Why not make it site condition dependent, such as " prior to need, windy, wet conditions or within (7) business days which ever comes first." More business days allows for reasonable flexibility but "prior to need" doesn't exclude containment and BMP accountability when it is needed which could be immediately.	Flexibility has been added to this section. Instead of completion by the next business day it now states "Any time maintenance issues are discovered in storm water controls, make repairs immediately if practical, prior to weather or activities utilizing the control, or within seven business days, whichever comes first."
41	Tom Beesley - Riverton	2.1.4	It appears the Permit is differentiating here between regular everyday maintenance, vs maintenance and correction that results from official written inspections. I fully agree regular maintenance should be expected in between official written inspections but if this is the case you should help the operator and MS4 understand if this is what 2.1.4 is really is intended for. In my opinion sections 4 and 5 serves as a catch all and a way to document and show containment to the DWQ NOI expectations in writing but for true BMP effectiveness Operators and their workforce need to be aware of BMP effectiveness and maintenance needs daily and not wait for an official written inspection to act. For example immediate action may be necessary when a concrete washout is flowing into the gutter...this can't wait for the next inspection day even end of the business day when it is raining. On the other hand, silt fence maintenance might not be necessary if the 10 day forecast is sunny, so why not allow some flexibility such as (7) days to be consistent with section 5. Again the above suggestion can accommodate both needs.	Clarification has been added to this section to better define what is expected and flexibility added to accepted time frames.
42	Tom Beesley - Riverton	2.2.2	Suggestion: change "unless infeasible" to "unless infeasible, implement comparable BMPs". From experience operators will take advantage of the word infeasible as do nothing. If we change the wording as above it closes the door operators attempt use as an out.	Construction within MS4s covered under the Small MS4 General UPDES Permit will be required to start retaining the 90th percentile rainfall event on site starting March 1, 2020. DWQ intends to monitor the effect of this requirement before implementing any other increased retention or infiltration requirements.
43	Tom Beesley - Riverton	2.2.3.	"one-half": Perhaps you should allow the BMP designer to specify this. Instead of setting a standard that can change.	This section has been modified to allow manufacture specifications or design information to be used. One half is kept as a recommendation.
44	Tom Beesley - Riverton	2.2.4.d	I think you can reduce this very long sentence by the language suggested in 2.1.4 or equal.	The wording in this section has been replace with language from previous permit. This requires trackout to be swept prior to accumulation that can be tracked beyond the immediate vicinity of the project.
45	Tom Beesley - Riverton	2.2.5.c	This has some logic for dust control but if the perimeter control is adequate why does it matter to expect sediment containment at pile?	Any area that is unused for 14 or more days is required to be temporarily stabilized. This section makes it clear that the requirement extends to stockpiles. The volume of a stockpile presents extra risk of erosion and discharges during storm events that can overwhelm perimeter controls. Temporary stabilization is a long term solution for stockpiles to minimize this risk
46	Tom Beesley - Riverton	2.2.8	The word infeasible sends the message I don't have to do anything which is what operators latch to . I suggest just placing the footnote 9 over topsoil.	Moved the footnote to reduce emphasis on the word infeasible.
47	Tom Beesley - Riverton	Footnote 8	Tarps can make it worse by generating more runoff	The EPA recommends the use of tarps for this application. It is acknowledged that tarps may only be effective when installed correctly and in the right conditions. They are being listed as an option but should not be utilized is situations where they increase runoff.
48	Tom Beesley - Riverton	2.2.10.b	Wordy, suggest shortening by comment on 2.1.4.	Modified to reduce wordiness. Unlike BMP repair which can require special materials, the removal of sediment is something that should be accomplished same day.
49	Tom Beesley - Riverton	2.2.10.b	Operator infeasibility is driven cost. Why not handle it with the 2.1.4 suggestion.	To simplify this requirement the infeasibility statement was removed. It now states that if there is sediment accumulation adjacent to an inlet protection measure that it is removed by the end of the business day in which it is found.
50	Tom Beesley - Riverton	2.2.12.c.(2)	Replace "drained" with "tributary area"	The term "drained" matches EPA permit language and may be more readily understood.

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51	Tom Beesley - Riverton	2.2.13.a	Replace "perimeter control" with "impounding type perimeter control".	Can you provide more information on the need to specify? We will continue to follow-up on this during the public notice period.
52	Tom Beesley - Riverton	2.3.3.a	May I suggest or equal; "Provide containment and cover for waste that can, erode, leach or become fugitive." Heavy waste, many times, is not the risk and should not matter as long as it is removed at project end.	Clarification has been added to this section that the requirements only apply to materials that have the potential mobilize or release pollutants. The tile has also been changed to remove "waste" since this is addressed in more detail in the following sections.
53	Tom Beesley - Riverton	2.3.3.e	Too much overlap with 2.3.3.a. suggestion to separate or distinguish.	The term "waste" has been removed with 2.3.3.a. That section has requirements for building materials and products. This section is designed to address waste.
54	Tom Beesley - Riverton	2.3.3.e	Again may I suggest or equal; "Provide containment and cover for waste that can, erode, leach or become fugitive." Heavy waste, many times, is not a risk and should not matter as long as it is removed at project end. too much ways and means. Why not provide the criteria and let the operator decide.	This section has been reworded to allow the operator to decide what method they will use to either cover or contain waste that is blowable or leachable.
55	Tom Beesley - Riverton	2.3.3.f	Perhaps we should allow the designer to decide as this can vary.	This was carried over from the previous permit and seems to be working. It's acknowledged that some sites do not have that distance available to them and so it now states "when possible".
56	Tom Beesley - Riverton	4.1.a.(1)	Suggest using the USWAC money to develop a inexpensive online version or operators will gravitate to UDOTs ECS program. If the CGP SWPPP Template is simplified I think it is possible.	This would need to be decided on by members of USWAC. This would be an allowable option as long as the content is similar. There are plans to revise the CGP SWPPP template to match this permit and simplify where possible.
57	Tom Beesley - Riverton	4.2.1 & 4.2.2	Why complicate, only offer 4.2.1, simplification in this case although less flexible could have a positive result.	Many operators currently use the 14 day option in 4.2.2. For remote sites or locations where activities aren't consistent this option may make more sense.
58	Tom Beesley - Riverton	4.4.3.a.(2)	When a project work is suspended then reduced inspections can make sense, but usually frozen conditions don't in my opinion.	This section is intended for high elevation sites with a significant amount of snowfall. Accessing these types of sites can be hazardous and snow cover limits visibility, reducing the effectiveness of an inspection. Since this section requires the site to have 3 months of expected frozen conditions, we do not expect this to be utilized in areas like Riverton.
59	Tom Beesley - Riverton	4.4.3.b.(1)	Again, why complicate it, this exception is very rare. Temperatures rise above 32 periodically almost everywhere all winter and if they plow snow this becomes a muddy mess. Inspections are not hard or expensive if done by the operator. Hiring inspections is expensive but that is a business choice, not required.	This is directed at high elevation sites where frozen conditions are expected for at least 3 months. This will not apply to locations that temperatures fluctuate above freezing more often.
60	Tom Beesley - Riverton	4.6	Suggest adding. "Acknowledge the effectiveness of all SWPPP BMPs, determine the cause of failing BMPs and explain the requirements for correction." It makes sense that the inspector should explain how to fix the problem and to prevent it from recurring and when needed include the RSW.	Effectiveness is already addressed in 4.6.1 and the requirement for corrective actions is identified in 4.7.1.d. Added language which requires consideration of the cause of BMP failures.
61	Tom Beesley - Riverton	4.7.1.d	Suggestion: "Document custody of the BMPs by name and number from the inspection(cause of failure) to its correction(minimizing reoccurring failures), i.e., document the BMP effectiveness, cause of BMP failure and provide instruction to the workforce for how to prevent problems, including but not limited to: BMP installation status, maintenance compliance and effort, wrong BMP for application or lack of training. See corresponding correction requirements, section 5." I think this is necessary because operators are not identifying why BMPs are ineffective and giving instruction for how to fix problem. Therefore problems perpetuate.	Requiring documentation of BMP by name and number is very prescriptive and unnecessary or overly complicated for some site. Consideration of the cause of the BMP failure's has been added to the permit and should help to address some of these concerns.
62	Tom Beesley - Riverton	5.2.1	Replace "Immediately" with "When site exposure warrants immediate attention". Replace "including cleaning up any contaminated surfaces" to "prior to time of need, wet and windy conditions including BMP maintenance, repair, training, site cleanup and BMP amendments".	Modified this section to require the immediate action only when warranted by site conditions. Added that action must be taken to "minimize or prevent the discharge of pollutants until a permanent solution from the problem is installed and made operational."

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63	Tom Beesley - Riverton	5.2.2	Replace "new or replacement control or significant repair, the corrective action must be completed by the close of the next business day" with "immediate attention then provide BMP maintenance, training, site cleanup and BMP amendments within (7) calendar days". This will allow for some flexibility.	This requirement was not modified. It is designed to require simple fixes to problems beyond standard maintenance to be completed in a more immediate fashion. It applies only to corrective action items which are defined in 5.1. Routine maintenance items are not included in this definition and therefore do not need to follow this timeframe. A seven day time frame is still provided for larger repairs or replacement controls.
64	Tom Beesley - Riverton	5.2.3	Very wordy, perhaps 5.2.2 could cover 5.2.3. The suggestions above help be more specific but also allow flexibility when warranted.	Modified the wording here to make it a little more concise. Moved the reporting requirements to the correct section.
65	Tom Beesley - Riverton	5.4	Suggestion add: "Document custody of the BMPs by name and number from the inspection(cause of failure) to its correction(minimizing reoccurring failures), i.e., document how the problem was prevented from reoccurring and when, including but not limited to: installing it, maintenance, training provided, BMPs added and BMPs amended. See corresponding inspection requirements, section 4." I think this is necessary because operators are not showing responsibility for the BMPs they choose and most correction reporting is very vague if it exist at all.	Requiring documentation of BMP by name and number is very prescriptive and unnecessary or overly complicated for some site. Consideration of the cause of the BMP failure's has been added to the permit and should help to address some of these concerns.