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CONSTRUCTION AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses construction site storm water runoff controls.

Highlighted Provisions:

This bill:

- defines terms;
- establishes standards regarding how municipality systems:
 - regulate controls for storm water runoff; and
 - inspect construction sites impacting storm water runoff;
- establishes penalties for non-compliance; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

19-5-105, as last amended by Laws of Utah 2011, Chapter 155

ENACTS:

19-5-108.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **19-5-105** is amended to read:

19-5-105 . Rulemaking authority and procedure.

(1) (a) Except as provided in Subsections (2) and (3), no rule that the board makes for

28 the purpose of the state administering a program under the federal Clean Water Act
 29 or the federal Safe Drinking Water Act may be more stringent than the corresponding
 30 federal regulations[~~which address the same circumstances~~].

31 (b) In making rules, the board may incorporate by reference corresponding federal
 32 regulations.

33 (c) Any rule of the board is subject to Section 63G-3-502.

34 (2) (a) The board may make rules more stringent than corresponding federal regulations
 35 for the purpose described in Subsection (1), only if it makes a written finding after
 36 public comment and hearing and based on evidence in the record that the
 37 corresponding federal regulations are not adequate to protect public health and the
 38 environment of the state.

39 (b) The municipal system may not make requirements for permits that are more stringent
 40 than corresponding federal regulations for the purpose described in Subsection (1),
 41 unless the municipal system makes a written finding after public comment and
 42 hearing and based on evidence in the record that the corresponding federal
 43 regulations are not adequate to protect public health and the environment of the state.

44 (i) [~~Those findings shall be accompanied by~~] The board and municipal system shall
 45 include with a written finding described in Subsection (2)(a) an opinion referring
 46 to and evaluating the public health and environmental information and studies
 47 contained in the record [~~which~~] that form the basis for the board's or municipal
 48 system's conclusion.

49 (3) The board may make rules related to agriculture water more stringent than the
 50 corresponding federal regulations if the commission approves.

51 Section 2. Section **19-5-108.3** is enacted to read:

52 **19-5-108.3 . Construction site storm water runoff control.**

53 (1) As used in this section:

54 (a) "Applicant" means a person that applies for a construction storm water permit to
 55 conduct or propose to conduct a use of land for a construction site.

56 (b) "Application" means a construction storm water permit application.

57 (c) "Best management practice" means the methods, measures, or practices in
 58 compliance with the federal Clean Water Act.

59 (d) "Construction storm water permit" means a permit required for soil disturbances of
 60 an acre or more, including less than an acre if it is part of a common plan of
 61 development or sale, where the disturbance is caused by construction activity.

- 62 (e) "Electronic site inspection" means geo-located and time-stamped photos taken,
63 evaluated, and submitted electronically by the applicant to the municipal system.
- 64 (f) "Municipal system" means a municipal separate storm sewer system described in the
65 federal Clean Water Act.
- 66 (g) "Oversight inspection" means a construction site inspection performed by the
67 municipal system to assess compliance with the permit.
- 68 (h) "Permit" means a construction storm water permit.
- 69 (i) "Prevention plan" means the storm water pollution prevention plan described in the
70 federal Clean Water Act.
- 71 (j) "Program" means the program described in Subsection (2).
- 72 (k) "Violation" means a failure to implement or maintain preferred best management
73 practices.
- 74 (2) This section does not supersede rules or regulations created by the board or division
75 under this chapter.
- 76 (3) No permit, rule, or action by a municipal system for the purpose of administering the
77 program may be more stringent than the minimum requirements of the federal Clean
78 Water Act.
- 79 (4) A municipal system may not deviate from the federal Clean Water Act, unless the
80 deviation is expressly permitted by state statute.
- 81 (5) (a) Each municipal system shall determine the municipal system's preferred best
82 management practices.
- 83 (b) Each municipal system shall publish the municipal system's preferred best
84 management practices on a website controlled by the municipal system.
- 85 (6) Each municipal system shall:
- 86 (a) maintain a list of requirements that make a complete application for a permit; and
87 (b) publish on a website controlled by the municipal system the list described in
88 Subsection (6)(a).
- 89 (7) The list described in Subsection (6)(a) may not exceed the template in the federal Clean
90 Water Act.
- 91 (8) (a) Each municipal system shall complete the review of the prevention plan within
92 14 business days after the day on which the applicant submits a complete prevention
93 plan.
- 94 (b) Each municipal system may request more information, or modification to the
95 prevention plan, if the request:

- 96 (i) is specific;
97 (ii) includes citations to local ordinances, or state or federal law that require the
98 modification to the prevention plan; and
99 (iii) is logged in an index of requested modification.
- 100 (c) Each municipal system has 14 business days after the day on which the applicant
101 submits the information or modification described in Subsection (8)(b) to complete
102 the review of the prevention plan.
- 103 (9) A municipal system shall not impose a fine.
- 104 (10) Any violation found by the municipal system may not result in an order to stop
105 construction activity if:
- 106 (a) an applicant selects the preferred best management practice for the site conditions;
107 (b) an applicant implements and properly maintains the best management practices as
108 described in Subsection (5), by the municipal system; and
109 (c) the violation is a result from a deficiency in the best management practice.
- 110 (11) (a) The municipal system:
- 111 (i) shall notify the applicant, in writing, of a violation;
112 (ii) shall provide the applicant a reasonable time of at least 24 hours to correct the
113 violation; and
114 (iii) may perform an inspection to verify that the violation is corrected.
- 115 (b) If an applicant does not correct the violation described in Subsection (11)(a)(i)
116 within the deadline set under Subsection (11)(a)(ii), the municipal system:
- 117 (i) shall notify the applicant, in writing, that the violation has not been corrected;
118 (ii) may issue a written warning that construction activity may be stopped if the
119 violation is not corrected within no less than another 24-hour period; and
120 (iii) may perform an inspection to verify that the violation is corrected.
- 121 (c) If an applicant does not correct the violation described in Subsection (11)(a)(i) within
122 the deadline set under Subsection (11)(b), the municipal system:
- 123 (i) shall notify the applicant, in writing, that the violation has not been corrected; and
124 (ii) may order the applicant to stop construction activity until the municipal system
125 performs an inspection to verify that the violation is corrected or the applicant
126 demonstrates that the violation is corrected through electronic site inspection.
- 127 (d) A municipal system may not impose the process described in this Subsection (11)
128 later than 30 days after the day on which the municipal system provides the required
129 preceding notice of violation or continuing violation.

- 130 (e) A municipal system may issue an order to stop construction earlier than described in
131 Subsection (11)(c)(ii) if the municipal system has a clearly documented reason
132 articulating an immediate threat to water quality.
- 133 (f) A municipal system may recoup the costs incurred to correct a violation the applicant
134 refuses to correct after the enforcement process described in this Subsection (11) has
135 been exhausted if the municipal system, at the time of clean up, determines a
136 significant harm to water quality or the storm water system is imminent.
- 137 (12) (a) A municipal system shall develop a checklist for a pre-construction prevention
138 plan review that is consistent with the federal Clean Water Act.
- 139 (b) The applicant, or an applicant's designee, shall participate in the pre-construction site
140 inspections.
- 141 (c) A municipal system may conduct a pre-construction site inspection in person or
142 using an electronic site inspection tool.
- 143 (13) Each municipal system shall develop, publish, and implement standard operating
144 procedures, forms, or similar types of documents for construction site inspections.
- 145 (14) A municipal system shall conduct an oversight inspection through an electronic site
146 inspection.
- 147 (15) A municipal system may conduct an on-site inspection if the municipal system has a
148 documented reason for justifying an on-site oversight inspection.
- 149 (16) Each municipal system shall:
- 150 (a) develop and publish a procedure for the applicant to notify the municipal system that
151 the applicant has completed active construction and is prepared for the municipal
152 system to conduct verification of final stabilization; and
- 153 (b) provide a copy of the procedure described in Subsection (16)(a) to the applicant
154 when the municipal system issues the permit.

155 Section 3. **Effective date.**

156 This bill takes effect on January 1, 2025.