

Senator Curtis S. Bramble proposes the following substitute bill:

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:



26 [19-5-108.3](#), Utah Code Annotated 1953

27

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

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

30 **19-5-105. Rulemaking authority and procedure.**

31 (1) (a) Except as provided in Subsections (2) and (3), no rule that the board makes for
32 the purpose of the state administering a program under the federal Clean Water Act or the
33 federal Safe Drinking Water Act may be more stringent than the corresponding federal
34 regulations [~~which address the same circumstances~~].

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

37 (c) Any rule of the board is subject to Section [63G-3-502](#).

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

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

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

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

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

54 **19-5-108.3. Construction site storm water runoff control.**

55 (1) As used in this section:

56 (a) "Applicant" means a person that applies for a construction storm water permit to

57 conduct or propose to conduct a use of land for a construction site.

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

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

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

64 (e) "Electronic site inspection" means geo-located and time-stamped photos taken,
65 evaluated, and submitted electronically by the applicant to the municipal system.

66 (f) "Municipal system" means a municipal separate storm sewer system described in
67 the federal Clean Water Act.

68 (g) "Oversight inspection" means a construction site inspection performed by the
69 municipal system to assess compliance with the permit.

70 (h) "Permit" means a construction storm water permit.

71 (i) "Prevention plan" means the storm water pollution prevention plan described in the
72 federal Clean Water Act.

73 (j) "Program" means the program described in Subsection (2).

74 (k) "Violation" means a failure to implement or maintain preferred best management
75 practices.

76 (2) This section does not supersede rules or regulations created by the board or division
77 under this chapter.

78 (3) No permit, rule, or action by a municipal system for the purpose of administering
79 the program may be more stringent than the minimum requirements of the federal Clean Water
80 Act.

81 (4) A municipal system may not deviate from the federal Clean Water Act, unless the
82 deviation is expressly permitted by state statute.

83 (5) (a) Each municipal system shall determine the municipal system's preferred best
84 management practices.

85 (b) Each municipal system shall publish the municipal system's preferred best
86 management practices on a website controlled by the municipal system.

87 (6) Each municipal system shall:

88 (a) maintain a list of requirements that make a complete application for a permit; and
89 (b) publish on a website controlled by the municipal system the list described in
90 Subsection (6)(a).

91 (7) The list described in Subsection (6)(a) may not exceed the template in the federal
92 Clean Water Act.

93 (8) (a) Each municipal system shall complete the review of the prevention plan within
94 14 business days after the day on which the applicant submits a complete prevention plan.

95 (b) Each municipal system may request more information, or modification to the
96 prevention plan, if the request:

97 (i) is specific;

98 (ii) includes citations to local ordinances, or state or federal law that require the
99 modification to the prevention plan; and

100 (iii) is logged in an index of requested modification.

101 (c) Each municipal system has 14 business days after the day on which the applicant
102 submits the information or modification described in Subsection (8)(b) to complete the review
103 of the prevention plan.

104 (9) A municipal system shall not impose a fine.

105 (10) Any violation found by the municipal system may not result in an order to stop
106 construction activity if:

107 (a) an applicant selects the preferred best management practice for the site conditions;

108 (b) an applicant implements and properly maintains the best management practices as
109 described in Subsection (5), by the municipal system; and

110 (c) the violation is a result from a deficiency in the best management practice.

111 (11) (a) The municipal system:

112 (i) shall notify the applicant, in writing, of a violation;

113 (ii) shall provide the applicant a reasonable time of at least 24 hours to correct the
114 violation; and

115 (iii) may perform an inspection to verify that the violation is corrected.

116 (b) If an applicant does not correct the violation described in Subsection (11)(a)(i)
117 within the deadline set under Subsection (11)(a)(ii), the municipal system:

118 (i) shall notify the applicant, in writing, that the violation has not been corrected;

119 (ii) may issue a written warning that construction activity may be stopped if the
120 violation is not corrected within no less than another 24-hour period; and

121 (iii) may perform an inspection to verify that the violation is corrected.

122 (c) If an applicant does not correct the violation described in Subsection (11)(a)(i)
123 within the deadline set under Subsection (11)(b), the municipal system:

124 (i) shall notify the applicant, in writing, that the violation has not been corrected; and

125 (ii) may order the applicant to stop construction activity until the municipal system
126 performs an inspection to verify that the violation is corrected or the applicant demonstrates
127 that the violation is corrected through electronic site inspection.

128 (d) A municipal system may not impose the process described in this Subsection (11)
129 later than 30 days after the day on which the municipal system provides the required preceding
130 notice of violation or continuing violation.

131 (e) A municipal system may issue an order to stop construction earlier than described
132 in Subsection (11)(c)(ii) if the municipal system has a clearly documented reason articulating
133 an immediate threat to water quality.

134 (f) A municipal system may recoup the costs incurred to correct a violation the
135 applicant refuses to correct after the enforcement process described in this Subsection (11) has
136 been exhausted if the municipal system, at the time of clean up, determines a significant harm
137 to water quality or the storm water system is imminent.

138 (12) (a) A municipal system shall develop a checklist for a pre-construction prevention
139 plan review that is consistent with the federal Clean Water Act.

140 (b) The applicant, or an applicant's designee, shall participate in the pre-construction
141 site inspections.

142 (c) A municipal system may conduct a pre-construction site inspection in person or
143 using an electronic site inspection tool.

144 (13) Each municipal system shall develop, publish, and implement standard operating
145 procedures, forms, or similar types of documents for construction site inspections.

146 (14) A municipal system shall conduct an oversight inspection through an electronic
147 site inspection.

148 (15) A municipal system may conduct an on-site inspection if the municipal system has
149 a documented reason for justifying an on-site oversight inspection.

150 (16) Each municipal system shall:

151 (a) develop and publish a procedure for the applicant to notify the municipal system
152 that the applicant has completed active construction and is prepared for the municipal system to
153 conduct verification of final stabilization; and

154 (b) provide a copy of the procedure described in Subsection (16)(a) to the applicant
155 when the municipal system issues the permit.

156 Section 3. **Effective date.**

157 This bill takes effect on January 1, 2025.