

1. Coverage under this Permit.

1.1 Permit Structure.

This permit is structured as follows:

- general requirements that apply to all facilities are found in Parts 1 through 3;
- industry sector-specific conditions are found in Part 4; and

The Appendices (A through E) contain detailed information on additional permit conditions.

1.2 Legal Authority

This is a Vermont National Pollution Discharge Elimination System (NPDES) permit required by federal law. Similar permits are in effect covering stormwater discharges associated with stormwater throughout the United States. The principal legal authorities governing this permit are Sections 402(b), 402(c) and 402(p) of the federal Clean Water Act (33 USC §§ 1342[b], 1342[c] and 1342[p]), 40 CFR 122.26 (which sets forth the details of federal permit requirements), 10 VSA §§1263, 1264 and 1264a (which govern issuance of permits and management of stormwater), and Chapters 13 and 13.12 of the Vermont Environmental Protection Rules (which govern issuance of NPDES permits and state general permits). Other legal requirements also apply, including those governing federal, state and citizen enforcement actions.

1.3 Eligibility.

In order to be eligible for coverage under this permit you must meet the eligibility requirements described below. If you do not meet the eligibility requirements then resulting discharges will be considered unpermitted discharges.

If you are undertaking construction activity you may also have to obtain coverage under a General Permit for Stormwater Runoff from Construction Sites (General Permit 3-9001, NPDES VTR100001 or its replacement) or obtain an individual construction permit.

Your stormwater discharge may also require coverage under an individual or general operational stormwater permit (3-9010 or 3-9015) for post-construction stormwater treatment facilities. You should contact the DEC Stormwater Section at (802)241-4320 for assistance determining which stormwater permit requirements are applicable to your site and activities.

Other state and federal permits and approvals may be required for: municipal or industrial waste discharges; activities within a wetland or wetland buffer; and the taking of endangered or threatened species.

1.3.1 Facilities Covered.

You may obtain authorization to discharge under this permit only for discharges from facilities in the 30 “sectors” of industrial activity summarized in Appendix D.

Co-located Activities. If you have other industrial activities on-site in addition to your primary industrial activity, you must also comply with any sector-specific requirements of this permit for those co-located industrial activities.

Coincidental Coverage. If your facility is covered under a separate individual discharge permit (i.e., wastewater or UIC permit), you do not need coverage under this permit if the individual permit incorporates terms, conditions and coverage at least as stringent as this general permit.

1.3.2 Allowable Stormwater Discharges.

The following discharges are eligible for coverage under this permit:

- 1.3.2.1** New and existing stormwater discharges associated with the industrial categories of activity detailed in Appendix D that are specifically identified by outfall or discharge location in the SWPPP, except for stormwater discharges identified in Section 1.3.4 of this permit and stormwater discharges to groundwater.
- 1.3.2.2** Discharges designated by the Secretary as needing a stormwater permit, to implement an approved TMDL or to address exceedances of water quality standards as outlined in 40 CFR 122.26(a)(9)(i)(C) or (D); and
- 1.3.2.3** Discharges that are not required to obtain NPDES permit authorization, but are co-mingled with discharges that are authorized under this permit.
- 1.3.2.4** Discharges subject to any of the stormwater-specific effluent limitations guidelines listed in Table 1-1, below;
- 1.3.2.5** For any facility where the New Source Performance Standards (NSPS) identified in Table 1-1 apply

Table 1-1. Stormwater-Specific Effluent Limitations Guidelines			
40 CFR Part/Subpart	Eligible Discharges	Affected MSGP Sector	Applicable NSPS?
Part 411, Subpart C	Runoff from material storage piles at cement manufacturing facilities	E	Yes
Part 418, Subpart A	Runoff from phosphate fertilizer manufacturing facilities	C	Yes
Part 423	Coal pile runoff at steam electric generating facilities	O	Yes
Part 429, Subpart I	Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas	A	Yes
Part 436, Subpart B	Mine dewatering discharges at crushed stone mines	J	No
Part 436, Subpart C	Mine dewatering discharges at construction sand and gravel mines	J	No
Part 436, Subpart D	Mine dewatering discharges at industrial sand mines	J	No
Part 443, Subpart A	Runoff from asphalt emulsion facilities	D	Yes
Part 445, Subparts A and B	Runoff from landfills	K, L	Yes

1.3.3 Allowable Non-Stormwater Discharges.

The following non-stormwater discharges are authorized under this permit:

- Discharges from fire-fighting activities;
- Fire hydrant flushings;
- Potable water, including water line flushings;
- Uncontaminated air conditioning or compressor condensate;
- Irrigation drainage;

- Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer’s instructions;
- Pavement wash waters where no detergents or chemicals are used, where sediment has been removed prior to washing, and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- Routine external building washdown that does not use detergents;
- Uncontaminated ground water or spring water;
- Foundation or footing drains where flows are not contaminated with process materials such as solvents; and
- Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of your facility, but NOT intentional discharges from the cooling tower (e.g., “piped” cooling tower blowdown or drains).

These allowable non-stormwater discharges are subject to the Secretary’s discretion pursuant to Section 1.9 to require an individual permit. In addition, if any of these allowable non-stormwater discharges may reasonably be expected to be present and to be mixed with stormwater discharges, they must be specifically identified and addressed in the facility’s SWPPP (See Section 2.1.4.5).

1.3.4 Limitations on Coverage.

1.3.4.1 *Discharges Mixed with Non-Stormwater.* You are not authorized to discharge stormwater that is mixed with sources of non-stormwater other than those listed in Part 1.3.3.

1.3.4.2 *Stormwater Discharges Associated with Construction Activity.* You are not authorized for stormwater discharges associated with construction activity unless in conjunction with mining activities, provided the applicable sector-specific requirements for construction stormwater discharges as specified in Sector G and Sector J of this permit are met. Construction activity is defined in 40 CFR 122.26(b)(14)(x) or 40 CFR 122.26(b)(15). All other discharges associated with construction activity require coverage under a General Permit for Stormwater Runoff from Construction Sites (General Permit 3-9001, NPDES VTR100001 or its replacement), an individual construction permit, or approval by a municipality covered under the Agency’s “Phase II” general permit.

1.3.4.3 *Discharges Currently or Previously Covered by another Permit.* You are not authorized to discharge:

- Stormwater discharges associated with industrial activity that are currently covered under an individual permit or an alternative general permit;
- Discharges previously covered by an individual permit or alternative general permit where that permit established site-specific numeric water quality-based

limitations developed for the stormwater component of the discharge (except generic pH range limitations not included to address a known exceedances of water quality standards);

- Discharges previously covered by an individual permit or alternative general permit where the permittee fails to implement Best Management Practices (BMPs) that provide equal or better pollution prevention or pollutant removal as required by the previous permit; or
- Discharges from facilities where any NPDES permit has been or is in the process of being denied, terminated, or revoked by EPA or the State (this does not apply to the routine reissuance of permits every five years).

1.3.4.4 *Wasteload Allocations.* You are not authorized for discharges when a Total Maximum Daily Load (TMDL) specifically articulates a wasteload allocation requiring more stringent controls than required by this permit, or when a Total Maximum Daily Load (TMDL) applies a wasteload allocation of zero (0) to your discharge (either specifically or by category). In a situation where an EPA-approved or established TMDL has specified a general wasteload allocation applicable to industrial storm water discharges, but no specific requirements for individual sites have been identified in the TMDL, you must consult with the Agency to confirm that adherence to a SWPPP that meets the requirements of the MSGP will be consistent with the approved TMDL.

1.3.4.5 *Discharges Subject to Effluent Limitations Guidelines.* You are not authorized for discharges subject to any effluent limitation guideline (i.e., discharges identified in 40 CFR, Subchapter N) that is not identified in Table 1-1.

1.3.4.6 *Endangered and Threatened Species and Critical Habitat Protection.* Coverage under this permit is available only if your stormwater discharges, allowable non-stormwater discharges, and stormwater discharge-related activities are not likely to jeopardize the continued existence of any State or Federally listed threatened or endangered species or result in the destruction or adverse modification of critical habitat, or habitat that is proposed to be designated as critical habitat, under the Federal Endangered Species Act, 16 U.S.C. §§ 1531-1544, or Vermont's Protection of Endangered Species Law, 10 VSA §§ 5401-5410.

1.3.4.7 *Hazardous Substances.* Discharges of a hazardous substance or oil in excess of reporting quantities caused by a non-stormwater discharge (e.g., a spill of oil into a separate storm sewer) are not authorized by this permit. In the event of a spill, the requirements of Section 311 of the CWA and other applicable provisions of Sections 301 and 402 of the CWA continue to apply. In addition, the reporting requirements of Part 3.5.1, Reporting Unauthorized Releases or Discharges, of this permit apply.

1.3.4.8 *New Discharges to Water Quality Impaired Receiving Waters.* The provisions of this part apply to operators of new discharges, as defined in Appendix A, proposing to discharge to an impaired water for which a TMDL has not yet been developed. To

satisfy the requirements of 40 CFR 122.4(i) that the discharge from the construction or operation of a new discharger not cause or contribute to a violation of water quality standards, the operator of the facility that is the new discharger must: 1) eliminate all exposure to stormwater of the pollutant(s) for which the waterbody is impaired, and properly document no exposure in the SWPPP, or 2) obtain written clarification from the Agency that the discharge is not expected to cause or contribute to a violation of a water quality standard, and file such notification with the SWPPP.

1.3.4.9 Stormwater Discharges Subject to Anti-degradation Water Quality Standards. New dischargers, as defined in Appendix A, must comply with the terms of this permit, along with any additional conditions imposed by the Secretary in order for their discharges to comply with Vermont's anti-degradation policy for water quality standards.

1.4 Permit Compliance, Enforcement and Orders to Control Discharges and Violations

Any noncompliance with the requirements of this Permit constitutes a violation of Vermont's Water Pollution Control Law, 10 VSA Chapter 47 and the Clean Water Act (CWA). For provisions specifying a time period to remedy noncompliance (including, but not limited to, Parts 2.2, 2.3 and 3.3), the initial BMP or SWPPP deficiency constitutes a violation of the Permit, 10 VSA Chapter 47 and the CWA (unless specifically otherwise stipulated), and subsequent failure to remedy such deficiencies within the specified time periods constitutes an independent, additional violation of the Permit, 10 VSA Chapter 47 and the CWA. Therefore, any time periods specified for remedying noncompliance do not absolve parties of the initial underlying noncompliance.

To provide clarity for operators, there are additional reminders in certain sections of this permit about what constitutes a permit violation. The absence of such a reminder in a particular section does not mean that failure to meet that requirement is not a permit violation. Such reminders are included for purposes of emphasis and not for purposes of limitation.

Where requirements and schedules for taking corrective actions are included, the time intervals are not grace periods, but are time limits considered reasonable for making repairs and improvements. They are included in the permit to ensure that inadequacies are not allowed to persist indefinitely.

Federal Law

EPA retains the authority to enforce the Clean Water Act and compliance with this permit pursuant to Section 309 of the CWA, 33 U.S.C. § 1319. The CWA provides significant penalties for any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318 or 405 of the CWA or any permit condition or limitation implementing such sections in a permit issued under the CWA. Any person who violates any condition of this permit is subject to potential civil penalties of up to

\$50,000 per day of violation, as well as any other appropriate sanctions provided by the CWA, including but not limited to imprisonment. In addition, Section 309(c)(4) of the CWA provides that any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than two (2) years, or by both.

State Law

Violations of the terms and conditions of this permit are subject to enforcement pursuant to 10 VSA Chapter 201. In addition and without limitation, the terms and conditions of this permit are enforceable as follows:

10 VSA §1275(a) provides that any person who violates any provision of Subchapter 1 of Vermont's Water Pollution Control Law, 10 VSA §§ 1250-1283, or who fails, neglects or refuses to obey or comply with any order or the terms of any permit issued in accordance with this subchapter, shall be fined not more than \$25,000 or be imprisoned not more than six months, or both. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.

10 VSA §8010(c) provides that a penalty of not more than \$25,000 may be assessed for each determination of violation. In addition, if the Secretary determines that a violation is continuing the Secretary may assess a penalty of not more than \$10,000 for each day the violation continues, up to a total of \$100,000.

10 VSA §1275(b) provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this subchapter, or by any permit, rule, regulation or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this subchapter, shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both.

If the Secretary finds that any person's action, or an activity, results in the construction, installation, operation or maintenance of any facility or condition which reasonably can be expected to create or cause a discharge to waters in violation of Subchapter 1 (Water Pollution Control) of 10 VSA Chapter 47, or to violate the Vermont Wetlands Rules, the Secretary may issue an order pursuant to 10 VSA §1272. Likewise, the Secretary may issue an order pursuant to §1277 if the Secretary finds that conditions exist in a municipality or combination of municipalities that cause or threaten to cause a reduction in the quality of ground or surface waters.

1.5 Water Quality Provisions.

Pursuant to 10 VSA § 1258, Clean Water Act § 301(b)(1)(C) and 402(p)(3)(A), as well as 40 CFR 122.44(d), this permit includes provisions to ensure that discharges do not cause or contribute to exceedances of water quality standards. This permit sets technology-based limitations in the form of Best Management Practices that apply to all pollutants associated with industrial activity, and some numeric effluent limitations (effluent limit guidelines, coal pile runoff) more specifically targeted to specific activities.

1.5.1 Numeric Effluent Limitations.

This permit stipulates numeric effluent limitations for coal pile runoff and effluent limitation guidelines (Part 3.2.3). Failure to comply with the effluent limitations applicable to your discharge is a violation of this permit.

1.5.2 Benchmarks.

This permit stipulates pollutant benchmark concentrations applicable to your discharge (Part 3.2.2). The benchmark concentrations do not constitute direct numeric effluent limitations; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily for your use (and the Agency's use as described in Part 1.5.3) to determine the overall effectiveness of your SWPPP and to assist you in knowing when additional corrective action may be necessary to protect water quality. If the average of four quarterly discharge samples exceeds a benchmark concentration you must review your SWPPP and your BMPs to determine whether any improvement or additional controls are needed to reduce that pollutant in your stormwater discharge(s). Failure to undertake and document the review, take the necessary corrective actions, or follow the Agency notification procedures stipulated in this permit are violations of this permit.

1.5.3 Water Quality Standards.

If at any time you or the Secretary determine(s) that your discharge causes or contributes to an exceedance of applicable water quality standards, you must take corrective actions and conduct follow-up monitoring. If you discover or are informed (by an entity other than the Agency) of the exceedances you must take corrective action and conduct follow-up monitoring as stipulated in Parts 3.3 and 3.4; you must also report the exceedances(s) to the Agency as stipulated in Part 3.4. If the Secretary makes the determination that your discharge causes or contributes to an exceedance of a water quality standard, you must comply with any requirements or schedules, including submitting additional information concerning the potential cause of the exceedance, provided by the Agency, and those requirements and schedules will supersede those of Parts 3.3 and 3.4, where such requirements conflict. In addition, one of the

following will apply: the Secretary may continue to authorize your coverage under this permit after you modify your SWPPP and your BMPs to adequately reduce pollutants in your discharge, and verify through monitoring. Alternatively, the Secretary may notify you that an individual permit application is necessary in accordance with Part 1.9.1. On a case by case basis, the Secretary may look at monitoring data as well as background concentrations in the stream, the Vermont Water Quality Standards (VWQS) Mixing Zone Policy (VWQS 2-04[A]), and other relevant information to determine whether the discharge has the reasonable potential to cause or contribute to a violation of the established water quality standard. Failure to take the appropriate action is a violation of this permit.

1.5.4 Water Quality Impaired Receiving Waters.

Impaired waters include both those with established TMDLs, and those for which TMDL development has been identified as necessary, but for which one has not yet been established. For a more detailed definition see Appendix A.

1.5.4.1 Discharge to an Impaired Water with an Established TMDL. If a wasteload allocation (WLA) has been established that applies to your discharge, you must develop the SWPPP accordingly (Part 2.1.3.2), and implement all necessary controls to meet that allocation. You must verify that your discharge complies with the WLA through the appropriate discharge monitoring (Part 3.2.4.2). Failure to comply with a relevant WLA is a violation of this permit.

If you have properly complied with the requirements of Part 2.1.3.2 and find that the applicable TMDL does not specify a wasteload allocation or other requirements either individually or categorically for your discharge (including disallowing such discharge), compliance with this permit will be deemed adequate to meet the requirements of the TMDL.

1.5.4.2 Discharge to an Impaired Water without an Established TMDL. If a TMDL has not been established that applies to your discharge you must comply with the requirements of this permit and any additional conditions stipulated by the Secretary (Part 2.1.3.2). If you have properly complied with all such requirements then compliance with this permit will be deemed adequate to meet the requirements for discharging to an impaired water. You are also subject to the monitoring requirement of Part 3.2.4.1. Failure to comply with applicable conditions is a violation of this permit.

1.6 Authorization under this Permit.

1.6.1 How to Obtain Authorization.

To obtain authorization under this permit, you must:

- Meet the Part 1.3 eligibility requirements; and
- Submit a complete NOI on forms provided by the Secretary. All new and existing facilities must submit NOIs. You must also provide a copy of a complete NOI to the municipal clerk of the municipality in which the discharge is located at the time your NOI is submitted to the Secretary. NOIs must be submitted in accordance with the deadline in Table 1-2.; and
- Develop and implement a SWPPP in accordance with the timetables in Part 2 of this permit

Table 1-2. MSGP Sector NOI Filing Deadline

<u>Group</u>	<u>Sectors</u>	<u>NOI Filing Deadline</u>
ALL	ALL	Effective Date of Permit

The Secretary may deny coverage under this permit and require submittal of an individual NPDES permit application or a new NOI based on a review of the completeness and/or content of the NOI or other information (see also Section 1.6.2). Where the Secretary requires a discharger authorized under this general permit to apply for an individual NPDES permit (or an alternative general permit), the Secretary will notify the discharger in writing that a permit application (or different NOI) is required by an established deadline.

New facilities must submit an NOI and SWPPP ninety (90) days prior to the commencement of industrial activity at the facility (*see* Part 2 of this permit).

You are strongly encouraged to apply for permit coverage using the Vermont electronic Department of Environmental Conservation (eDEC) on-line permitting system. The eDEC can be accessed through the DEC's MSGP web site at http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_msgp.htm. Submitting an electronic NOI is the fastest and easiest way to obtain permit coverage. Using the electronic system will ensure that your form is complete.

1.6.2 Effective Date of Permit Coverage.

You are not authorized to discharge stormwater associated with industrial activity under the terms of this permit until you receive a written determination by the Secretary that your NOI filing is complete, and the discharge is eligible for coverage under the terms and conditions of this general permit. In the event that you have an existing discharge of stormwater associated with industrial activity and the Secretary denies authorization to continue your discharge under the terms of this general permit then you must within sixty (60) days either submit an application for an individual permit or cease the discharge.

Subsequent to the effective date of permit coverage, if the Secretary determines that incorrect or insufficient information has been provided in your NOI, or in the event that the Secretary determines that you do not qualify for coverage under this permit for other reasons, or the Secretary determines that your SWPPP fails to satisfy the terms and conditions of this permit, including, without limitation conditions with respect to federal or state Threatened or Endangered Species, your authorization to discharge under the terms of this permit will be deemed void retroactive to the date of initial coverage. The Secretary may make such a determination based on public comments received on your SWPPP pursuant to Section 2.5., or upon other information received from the public or other sources.

In the event that you have provided sufficient information in your NOI, the Secretary may nonetheless notify you at any time that your SWPPP, your BMPs or other components of your stormwater program do not meet one or more of the requirements of this permit pursuant to Section 2.5. This notification may be the result of comments on your SWPPP that the Secretary receives from the public. The Secretary may require modifications to your SWPPP, stipulated deadlines, additional monitoring requirements and special reporting requirements.

1.6.2.1 Initial Information. Pursuant to 10 VSA § 1263[b], the Secretary may refuse to grant permission to discharge under the terms of this general permit until the Secretary receives sufficient information to determine whether the application complies with the terms and conditions of this permit. Any interested person should either file comments or a letter of interest with the Agency during the 10-day notice period. Should the Secretary extend or reopen the comment period, the Secretary will so notify the applicant and those persons who file comments or a letter of interest. The comment period in such case shall be extended until 10 days after the application is deemed complete.

1.6.2.2 Public Comment. Pursuant to 10 VSA § 1263[b], for a period of ten (10) days following receipt of an application for coverage under this permit, the Secretary shall provide an opportunity for written comments regarding whether the application and certification comply with the terms and conditions of this permit. The Secretary may extend the comment period at his or her discretion or if additional information is requested pursuant to Section 1.6.2.3 below.

1.6.2.3 Additional Information. The Secretary may require you to submit additional information that the Secretary considers necessary in order to make a decision on the eligibility for, or the issuance or denial of, an authorization to discharge pursuant to this general permit. The Secretary shall deny authorization to discharge pursuant to this general permit if the additional information requested is not provided to the Secretary within sixty (60) days of the Secretary's request.

1.6.2.4 Time Frame for Agency Actions. Following the close of the initial public comment

period, the Secretary will authorize coverage under this general permit, deny eligibility, require an individual permit, or request additional information if the application is deemed incomplete. If the application is deemed incomplete, the public notice period shall extend until ten (10) days following receipt of a complete application.

1.6.3 Continuation of the Expired General Permit.

If this permit is not reissued or replaced prior to the expiration date, and you re-apply in accordance with Section B.2, coverage under this permit will continue in force and effect until a new general permit is issued. Only owners and operators of facilities previously authorized to discharge under the expired permit are covered by the continued permit. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by this permit until the earliest of:

- Your authorization for coverage under a reissuance or replacement of this permit, following your timely and appropriate submittal of a complete NOI requesting authorization to discharge under the new permit and compliance with the requirements of the new permit; or
- Your submittal of a Notice of Termination; or
- Issuance or denial of an individual permit for the facility discharges; or
- A formal permit decision by the Secretary not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

1.7 Terminating Coverage.

1.7.1 Submitting a Notice of Termination.

If you wish to terminate coverage under this general permit, you must submit a Notice of Termination (NOT) on forms provided by the Secretary. At that point, authorization to discharge is terminated for you as a named permittee. An NOT must be submitted within thirty (30) days if a new owner or operator has assumed responsibility for the facility or if operations have ceased at the facility and there are no longer discharges of stormwater associated with industrial activity from the facility and the permittee has already implemented necessary sediment and erosion controls.

You are strongly encouraged to submit a Notice of Termination using the Vermont electronic Department of Environmental Conservation (eDEC) on-line permitting system. The eDEC can be accessed through the DEC's MSGP web site at http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_msgp.htm. Electronically submitting your Notice of Termination is the fastest and easiest way to terminate permit coverage. Using the electronic system will ensure that your form is complete.

1.7.2 When to Submit an NOT.

You must submit an NOT within 30 days after one or more of the following conditions have been met:

- a new owner or operator has assumed responsibility for the facility; or
- you have ceased operations at the facility and there no longer are discharges of stormwater associated with industrial activity from the facility and you have already implemented necessary sediment and erosion controls as required by Part 2.1.5.9; or
- you have obtained coverage under an individual or alternative general permit for all discharges required to be covered by an NPDES permit.

1.7.3 Discharges After the NOT Is Submitted.

If you submit an NOT without meeting one or more of the conditions identified in Part 1.7.2, then your NOT is not valid and you must continue to comply with the requirements of this permit.

1.8 Conditional Exclusion for No Exposure.

If all your industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff then you may be eligible for a conditional exclusion from the requirements of this General Permit that require the preparation of a SWPPP and related monitoring of stormwater quality. To qualify for conditional exclusion, you must file an application and certification of No Exposure on forms provided by the Agency and receive approval from the Secretary. If you obtain coverage under this option you will be subject to the limitations and conditions set forth in this section with which you must comply in order to maintain eligibility for exclusion. The requirements pertaining to a demonstration that all your industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff are set forth in Sections 1.8.2 below.

If you meet the requirements of section 1.8.2, and file a No Exposure Certification on forms provided by the Secretary you are no longer authorized by nor required to comply with this permit upon submission of a no exposure certification to the Agency. If you are no longer required to have permit coverage because of a no exposure exclusion and have submitted a No Exposure Certification form to the Agency, you are not required to submit an NOT.

You are strongly encouraged to apply for No Exposure conditional exclusion using the Vermont electronic Department of Environmental Conservation (eDEC) on-line permitting system. The eDEC can be accessed through the DEC's MSGP web site at

http://www.anr.state.vt.us/dec/waterq/stormwater/htm/sw_msgp.htm. Electronically submitting your No Exposure certification is the fastest and easiest way to obtain conditional exclusion from permit requirements. Using the electronic system will ensure that your form is complete.

1.8.1 Certification of No Exposure

In the event that you have elected to apply for conditional exclusion from permit requirements by certifying “No Exposure” as set forth in Section 1.8 of this general permit then your application must include the following information:

- 1.8.1.1 The legal name, address and phone number of the facility operator;
- 1.8.1.2 The facility name and address;
- 1.8.1.3 The latitude and longitude of the facility;
- 1.8.1.4 Whether the facility was previously covered under an NPDES storm water permit, and the NPDES permit number of any such permit;
- 1.8.1.5 The facility’s SIC/Activity code(s), including both primary and secondary codes, if applicable;
- 1.8.1.6 The total size of the site associated with industrial activity (in square feet);
- 1.8.1.7 A completed Exposure Checklist which satisfies each of the no exposure requirements of Part 1.8.2 of this permit.
- 1.8.1.8 The following certification statement must be signed in accordance with the signatory requirements of Section B.11 in Appendix B of this general permit.
- 1.8.1.9 All claims of No Exposure must include the following certification statement:

“I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of “No Exposure” and obtaining a conditional exclusion from the requirements of this General Permit; and that there are no discharges of stormwater contaminated by exposure to industrial activities or materials from the industrial facility identified in this document (except as allowed under Section 1.3 of this General Permit 3-9003). I understand that I am obligated to submit a No Exposure certification form once every five years to the Vermont Agency of Natural Resources and, if applicable, to the operator of the local municipal separate storm sewer system (MS4) into which this facility discharges. I understand that I must allow the Agency, or MS4 operator where the discharge is into the local MS4, to perform inspections to confirm the condition of no exposure and to make such inspection reports publicly available upon request. I

understand that I must obtain coverage under this General Permit 3-9003 in the event that the information in the certification changes and the facility is no longer eligible for the conditional exclusion. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly involved in gathering the information, the information submitted is to the best of my knowledge and belief true, accurate and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

1.8.2 Requirements to Demonstrate No Exposure

To demonstrate that all your industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff you must:

- 1.8.2.1 Provide a storm resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt, and runoff;
- 1.8.2.2 Demonstrate and certify that none of the following materials or activities are, or will be in the foreseeable future, exposed to precipitation:
 - Using, storing or cleaning industrial machinery or equipment, and areas where residuals from using, storing or cleaning industrial machinery or equipment remain and are exposed to stormwater;
 - Materials or residuals on the ground or in stormwater inlets from spills/leaks;
 - Materials or products from past industrial activity;
 - Material handling equipment (except adequately maintained vehicles);
 - Materials or products during loading/unloading or transporting activities;
 - Materials or products stored outdoors (except final products intended for outside use, e.g., new cars, where exposure to stormwater does not result in the discharge of pollutants);
 - Materials contained in open, deteriorated or leaking storage drums, barrels, tanks, and similar containers;
 - Materials or products handled/stored on roads or railways owned or maintained by the discharger;

- Waste material (except waste in covered, non-leaking containers, e.g., dumpsters);
- Application or disposal of process wastewater (unless otherwise permitted); and
- Particulate matter or visible deposits of residuals from roof stacks/vents not otherwise regulated, i.e., under an air quality control permit, and evident in the stormwater outflow.

1.8.3 Materials and Activities Which Need Not Be Sheltered to Demonstrate No Exposure

To demonstrate no exposure, storm resistant shelter is not required for the following industrial materials and activities:

- 1.8.3.1 Drums, barrels, tanks, and similar containers that are tightly sealed, provided those containers are not deteriorated and do not leak (“Sealed” means banded or otherwise secured and without operational taps or valves);
- 1.8.3.2 Adequately maintained vehicles used in material handling; and
- 1.8.3.3 Final products, other than products that would be mobilized in stormwater discharge (e.g., rock salt).

1.8.4 Limitations on No Exposure Demonstrations

- 1.8.4.1 The demonstration of no exposure can only be made on a facility-wide basis, not for individual outfalls. If a facility has some discharges of stormwater that would otherwise be No Exposure discharges, permit requirements under this permit may be adjusted accordingly for these discharges.
- 1.8.4.2 If circumstances change and industrial materials or activities become exposed to rain, snow, snowmelt, and/or runoff, then you no longer qualify for conditional exclusion from the requirements of this permit and your discharge becomes subject to enforcement as an un-permitted discharge. If you anticipate such changes in your circumstances you should prepare a SWPPP and apply for and obtain coverage under Sections 2 through 4 of this general permit prior to the change of circumstances.
- 1.8.4.3 Notwithstanding the provisions of this Section 1.8, the Secretary retains the authority to require coverage under sections 2 through 4 of this general permit (and deny coverage under this Section 1.8) upon making a determination that

the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard.

1.8.5 Conditions for Claiming and Maintaining No Exposure Status

In order to claim and maintain No Exposure status you must:

- 1.8.5.1 In accordance with the requirements set forth in Section 1.8, submit a signed certification of No Exposure stating that all your industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt and/or runoff.
- 1.8.5.2 Submit the signed No Exposure certification forms to the Agency once every five years;
- 1.8.5.3 Allow the Agency to inspect the facility to determine compliance with the No Exposure conditions;
- 1.8.5.4 Allow the Agency to make any No Exposure inspection reports available to the public upon request;
- 1.8.5.5 For facilities that discharge through an MS4, upon request you must submit a copy of the certification of No Exposure to the MS4 operator, as well as allow inspection and public reporting by the MS4 operator; and
- 1.8.5.6 Any time there is a change in the owner or operator of your facility you must notify the Agency within 30 days of the change. The No Exposure form is non-transferable. If a new owner or operator takes over the facility, the new owner or operator must complete and submit a new form to claim No Exposure.

1.9 Permit Exclusions.

1.9.1 Agency Requiring Coverage under an Individual or Alternate Permit.

The Secretary may require you to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. The Secretary may determine at his or her own discretion that an individual or an alternative general permit is required. The Secretary may require any person who files a NOI to apply for an individual permit if the discharge does not qualify for coverage under this general permit or the Secretary finds that an individual permit is required pursuant to Section 13.12 D of the Agency's General Permit Rules or Section 1.9 of this permit.

Any interested person may petition the Secretary to take action under this Subpart. If the Secretary requires you to apply for an individual NPDES permit, the Secretary will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and application information. In addition, if you are an existing permittee covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of the individual NPDES permit, or the alternative general permit as it applies to you, coverage under this general permit will automatically terminate. The Secretary may grant additional time to submit the application following your request. If you are covered under this permit and fail to submit an individual NPDES permit application as required by the Secretary, then the applicability of this permit to you is automatically terminated at the end of the day specified by the Secretary as the deadline for application submittal. The Secretary may take appropriate enforcement action for the unpermitted discharge.

When an individual NPDES permit is issued to you, or you are authorized to discharge under an alternative NPDES general permit, your coverage under this permit is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit. Until such time as an alternative permit or individual permit is issued, the existing general permit remains fully in force.

1.9.2 Permittee Requesting Coverage under an Alternate Permit.

You may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, you must submit an individual permit application in accordance with the requirements of 40 CFR §122.26(c)(1)(ii), with reasons supporting the request, to the Secretary. The request may be granted by issuance of an individual permit or an alternative general permit if your reasons are adequate to support the request.

When an individual NPDES permit is issued to you, or you are authorized to discharge under an alternative NPDES general permit, your coverage under this permit is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

1.9.3 Termination of Coverage under the MSGP.

The Secretary may terminate permit coverage for any reason specified in 40 CFR § 122.64 and/or or Section 13.12 of the Vermont Water Pollution Control Regulations. Terminating permit coverage shall not preclude any enforcement by the Agency.

1.9.4 Modification or Revocation and Reissuance.

The permit may be modified or revoked for any reason stated in 40 CFR §§ 122.62 and 122.63 and/or Section 13.12 of the Vermont Water Pollution Control Regulations, or for any of the reasons stated in Part 1.3.4.6, 1.6, 1.6.2, or 2.1.6.1. Coverage under this permit may likewise be modified pursuant to Part 2.5. Permit modification or revocation will be in accordance with Section 13.12 of the Vermont Water Pollution Control Regulations.