

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

GENERAL PERMIT 3-9015

**NEW STORMWATER DISCHARGES
TO WATERS THAT ARE NOT PRINCIPALLY
IMPAIRED BY COLLECTED STORMWATER RUNOFF**

PART I. COVERAGE UNDER THIS GENERAL PERMIT

A. Introduction

The Secretary (“Secretary”) of the Agency of Natural Resources (“Agency”) is issuing this general permit for new discharges of stormwater runoff to waters of the State of Vermont that are not principally impaired by collected stormwater runoff. This includes proposed new stormwater discharges to all Class A and Class B waters in the State except those waters listed on Appendix A to this general permit, or as amended from time to time by the Secretary. Proposed new stormwater discharges to the waters on Appendix A must obtain coverage under an applicable Watershed Improvement Permit, if any, or under an individual stormwater discharge permit.

B. Discharges Covered by this General Permit

Coverage under this permit is available for the following proposed new stormwater discharges:

1. Discharges of stormwater runoff from new development in which the area of all impervious surfaces contributing stormwater runoff to one or more stormwater discharge points is equal to or greater than two (2) acres;
2. Discharges of stormwater runoff from new development in which the area of all impervious surfaces contributing runoff to one or more stormwater discharge points is equal to or greater than one (1) acre and the ratio of the area of the watershed at the point of discharge furthest downstream measured in square miles and the area of all impervious surfaces in the development measured in acres is less than 3.0;
3. Discharges of stormwater runoff from new development in which the area of all impervious surfaces contributing runoff to one or more stormwater discharge points is equal to or greater than one (1) acre and the discharge is to a Class I wetland or the discharge is to lakes and ponds that have drainage areas of less than 40 square miles and a drainage area to surface area ratio of less than 500, or tributaries of those lakes and ponds;
4. Discharges of stormwater runoff from the expansion of existing impervious surfaces at an existing development, if the new impervious surface created meets the threshold for a permit set forth in Part I.B.1, 2 or 3 above;

5. Discharges of stormwater runoff from the redevelopment of existing impervious surfaces at an existing development, if the redevelopment involves impervious surfaces that meet the threshold for a permit in Part I.B.1, 2 or 3 above.
6. If the acreage threshold for stormwater discharge permits is changed in a new Stormwater Management Rule issued by the Secretary after the effective date of this general permit, then discharges of stormwater runoff from new development, expansion, and redevelopment which meet the acreage thresholds in the new Stormwater Management Rule will be eligible for coverage under this general permit;
7. If the discharge of stormwater runoff from the redevelopment of impervious surfaces at an existing development did not require a stormwater discharge permit prior to the effective date of this general permit, then coverage under this general permit is not required provided that:
 - a. A complete application for all local, state and federal permits related to either the regulation of land use or a discharge to waters of the State had been submitted as of the effective date of this general permit, and the applicant does not subsequently file an application for permit amendment in a way that would have an undue, adverse impact on water quality, and substantial construction of the project commences within two years of the date on which all such local, State and federal permits become final; or
 - b. All local, State and federal permits related to either the regulation of land use or a discharge to waters of the State had been obtained as of the effective date of this general permit and substantial construction of the project commences within two years of the effective date of this general permit;
 - c. No local, State or federal permits related to either the regulation of land use or a discharge to waters of the State are required and substantial construction of the project commences within two years of the effective date of this general permit; or
 - d. *The redevelopment is a linear project and right of way acquisition has been substantially completed as of the effective date of this general permit.*

C. Discharges Not Eligible for Coverage under this General Permit

The following discharges are not covered by this general permit:

1. Non-stormwater discharges;
2. As provided in 10 V.S.A. §1264(e), no permit is required under this section for stormwater runoff from farms subject to accepted agricultural practices adopted by the Commissioner of Agriculture, Food and Markets or for stormwater runoff from silvicultural activities subject to accepted management practices adopted by the Commissioner of Forest, Parks and Recreation;
3. Stormwater discharges associated with a single family or residential duplex home that is not part of a multi-family development; and

4. Stormwater discharges from the portion of a bridge superstructure that spans the normal water level of a receiving water in cases where no water from the approaches flows to the bridge deck.

D. Relation to Other Permits

Permittees seeking coverage under this general permit should be aware that their activities may also require a permit or approval pursuant to other State and federal laws, including but not limited to:

1. 10 V.S.A. §1259 (Underground Injection Wells), which might require a permit for the discharge of stormwater to an underground injection well (eg. floor drains, etc.) for projects that do not meet the acreage threshold for coverage under this general permit;
2. 40 CFR §122.26, which requires a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges associated with large construction activity as defined in 40 CFR §122.26(b)(14)(x) and stormwater discharges associated with small construction activity as defined in 40 CFR §122.26(b)(15);
3. 40 CFR §122.26, which requires a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges associated with industrial activities as defined in 40 CFR §122.26(b)(14);
4. Section 404 of the federal Clean Water Act, 33 FWPCA §1344; and
5. The Vermont Wetland Rules, which require a Conditional Use Determination for certain activities affecting wetlands.

E. Definitions

NOTE: Additional definitions are set forth in the Glossary of the Vermont Stormwater Management Manual (April 2002).

“Alternative STP Design” means a STP design that is not included in Sections 2.1 and 2.2 of the Vermont Stormwater Management Manual (April 2002) and is proposed by a designer and approved by the Secretary pursuant to Section 2.5 of the Vermont Stormwater Management Manual (April 2002).

“Collected stormwater runoff” means natural precipitation that does not infiltrate into the soil and which is collected and discharged to waters of the State via a discrete conveyance including but not limited to any pipe, ditch, swale, channel, tunnel or culvert.

“Designer” means any individual whose qualifications are acceptable to the Secretary. The Secretary may require that a stormwater system design be prepared by a professional engineer practicing within the scope of their engineering specialty and licensed in the State of Vermont, as necessary to protect the public or the environment.

“Development” means the construction of impervious surfaces on a tract or tracts of land.

“Existing Development” means a development which was built prior to the effective date of this general permit, or a development from which the discharge of stormwater runoff was authorized pursuant to 10 V.S.A. §1263, §1264 or §1265 prior to the effective date of this general permit.

“Existing stormwater discharge” means a discharge of collected stormwater runoff which first occurred prior to June 1, 2002 and that is subject to the permitting requirements of 10 V.S.A. Chapter 47.

“Expansion” means the increase or addition of impervious surface.

“Impervious Surface” means those man made surfaces including, but not limited to, paved and unpaved roads, parking areas, roofs, driveways and walkways, from which precipitation runs off rather than infiltrates.

“Linear project” means, but is not limited to, roads, streets, highways and bikepaths.

“Municipality” means a city, town, or incorporated village.

“New Development” means the construction of impervious surfaces on a tract or tracts of land occurring after the effective date of this general permit.

“New stormwater discharge” means a new or expanded discharge of collected stormwater runoff, subject to the permitting requirements of 10 V.S.A. Chapter 47, which first occurs after June 1, 2002 and has not been previously authorized pursuant to 10 V.S.A. Chapter 47.

“Nonstructural STP” means methods or activities used to mitigate the adverse impacts of stormwater runoff including, but not limited to, disconnection of rooftop runoff, disconnection of non-rooftop runoff, sheetflow runoff to stream buffers and use of open vegetated swales.

“Offsite” means the land within the development’s drainage area that is not owned or controlled by the applicant.

“Operator” means any person who has operational control of a development, redevelopment or expansion.

“Permittee” means a person who has received authorization to discharge pursuant to this general permit from the Secretary.

“Person” means an individual, partnership, public or private corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word person also means any subdivision, agency, or instrumentality of this State, of any other state, of the United States, or of any interstate body.

“Phased Development” means a development completed in two or more stages, which are completed as part of an anticipated larger development. The term phased development is not intended to include the types of scattered or non-contiguous developments that are set forth as planned development in long-range transportation plans, regional plans or municipal plans.

“Redevelopment” means the construction of impervious surface where impervious surface already exists when such new construction involves substantial site grading, subsurface excavation, or modification of existing stormwater conveyance.

“Secretary” means the Secretary of the Agency of Natural Resources or his/her authorized representative.

“Stormwater runoff” means natural precipitation that does not infiltrate into the soil, including material dissolved or suspended in such natural precipitation, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

“STP” means a stormwater treatment practice, which is a specific device or technique designed to provide stormwater quality treatment and/or quantity control.

“Structural STP” means devices that are constructed to provide temporary storage and/or treatment of stormwater runoff.

“Vermont Stormwater Management Manual” means the Vermont Stormwater Management Manual dated April 2002.

F. Phased Development

If any development, expansion or redevelopment does not meet the permit acreage thresholds in Part I.B. of this general permit or in any new Stormwater Management Rule, but is part of an anticipated larger development that will meet such acreage thresholds, then coverage under this general permit is required.

G. Legal Authority

This general permit is issued in accordance with 10 V.S.A. §§1258, 1259, 1263, 1264 and 1267 and Rule 13.12 of the Vermont Water Pollution Control Regulations (“General Permit Rules”).

PART II. APPLICATION REQUIREMENTS AND IMPLEMENTATION DEADLINES

A. Who Must File Application

The record owner and operator, if any, of the land on which the development, redevelopment or expansion will occur shall apply as co-applicants. If an application is made in connection with a subdivision, including but not limited to commercial or residential subdivisions, condominiums or industrial parks, the developer and owners association, condominium association or other similar legal entity shall apply as co-permittees.

The application shall also list the name or names of all persons who have a substantial property interest, such as through title, lease, purchase or lease option, right-of-way or easement, in these lands by reasons of ownership or control and shall describe the extent of their interests. The Secretary may find that the property interest of any such person is of such significance that the application cannot be accepted or the review cannot be completed without their participation as co-applicants.

B. Contents of Application

An application for coverage under this general permit shall consist of a completed Notice of Intent (NOI) form with all necessary attachments and fees. A blank NOI form is available on-line at www.vtwaterquality.org/stormwater.htm.

C. Where to File Application

A complete application shall be filed with the Agency at the following address:

Stormwater Management Program
Water Quality Division
Department of Environmental Conservation
Building 10 North
103 South Main Street
Waterbury, Vermont 05671-0408

D. Determination of Complete Application

Once the Secretary has determined that an application is complete, the Secretary will provide a written determination of complete application to the applicant.

E. Additional Information

The Secretary may require that an applicant submit additional information that the Secretary considers necessary in order to make a decision on the issuance or denial of an authorization to discharge pursuant to this general permit. The Secretary may refuse to authorize a discharge pursuant to this general permit if the additional information requested is not provided to the Secretary within thirty (30) days of the Secretary's request or within such other time period specified by the Secretary.

F. Public Notice of Application

Once the Secretary deems an application complete, the Secretary shall provide notice to the municipal clerk of the municipality in which the discharge is located, shall post notice on DEC's website and shall provide notice to a list of interested persons, if any.

G. Public Comments on the Application

For a period of ten (10) days following public notice of the application, the Secretary shall provide an opportunity to the public to provide written comment "regarding whether the application complies with the terms and conditions of the general permit," pursuant to 10 V.S.A. § 1263(b).

H. Authorization to Discharge

An applicant shall be authorized to discharge stormwater pursuant to this general permit upon the receipt of a written determination by the Secretary that the stormwater discharge is eligible for coverage under the

terms and conditions of this general permit. The permittee shall file the authorization to discharge in the local land records in accordance with Part VI.N of this general permit.

I. Designer’s Statement of Compliance at Completion of Construction

Within thirty (30) days of the completion of construction of the permitted stormwater management system, the permittee shall submit to the Secretary a written statement signed by a designer that the stormwater management system was built and is currently operating in compliance with Part III. A or B, whichever is applicable, of this general permit.

PART III. STORMWATER TREATMENT STANDARDS AND STPS

A. Treatment Standards and STPs for New Development and Expansion

1. General Treatment Standards

A permittee for new development or expansion of existing development shall comply with the treatment standards for water quality, groundwater recharge, channel protection, overbank flood protection and extreme flood control set forth in Section 1.1 of the Vermont Stormwater Management Manual.

2. STPs Available for Use in Meeting Treatment Standards

A permittee for new development or expansion of existing development shall use the STPs in the Vermont Stormwater Management Manual, alone or in combination, in order to meet the applicable treatment standards. An alternative STP may be used to meet the applicable treatment standards if the alternative is accepted by the Secretary pursuant to Section 2.5 of the Vermont Stormwater Management Manual.

3. STP Required Design Elements

A permittee for new development or expansion of existing development shall comply with the required design elements in Section 2.7 of the Vermont Stormwater Management Manual for the chosen STPs.

B. Treatment Standards and STPs for Redevelopment

1. General Treatment Standards

A permittee for redevelopment of existing impervious surfaces shall comply with the treatment performance standard for water quality set forth in Section 1.1.1.2 of the Vermont Stormwater Management Manual.

2. STPs Available for Use in Meeting Treatment Standards

A permittee for redevelopment shall use the STPs in the Vermont Stormwater Management Manual, alone or in combination, in order to meet the applicable water quality treatment standard.

An alternative STP may be used to meet the applicable water quality treatment standard if it is accepted by the Secretary pursuant to Section 2.5 of the Vermont Stormwater Management Manual.

3. STP Required Design Elements

A permittee for redevelopment shall comply with the required design elements in Section 2.7 of the Vermont Stormwater Management Manual for the chosen STPs.

PART IV. PROHIBITION

Discharges of any material other than stormwater, including but not limited to vehicle and equipment maintenance spills, fuels, wash water, construction debris, oil and other hazardous substances, are not authorized by this general permit.

PART V. OPERATION AND MAINTENANCE

A. Operation and Maintenance of Stormwater Management System

The permittee shall at all times properly operate, inspect and maintain all stormwater collection, treatment and control systems which are installed and used to achieve compliance with this general permit. The permittee shall use the operation, maintenance and inspection checklists provided by the Secretary. The condition of the permitted facility shall at no time contribute to a violation of the terms, conditions, requirements, limitations and restrictions specified by this general permit.

B. Proper Disposal of Solids

Solids, sediments and other pollutants collected and removed in the course of treatment or control of stormwater runoff shall be disposed of in a manner to prevent any pollutant from entering waters or wetlands.

C. Semi-Annual Inspection and Report

The stormwater collection, treatment and control system shall be properly operated and maintained and shall be inspected at least twice per year, once in the spring after snow melt, and once in the fall prior to snow fall. The inspection shall evaluate the operation, maintenance and condition of the stormwater collection, treatment and control system. The permittee shall prepare a semiannual inspection report on a form provided by the Secretary regarding the operation, maintenance and condition of the stormwater collection, treatment and control system. The inspection report shall note all problem areas and all measures taken to correct any problems and to prevent future problems. The permittee shall, by December 1st and June 1st of each year, submit a copy of the inspection report to the Secretary.

D. Designer's Re-Statement of Compliance

In accordance with a schedule provided in the authorization to discharge, a permittee shall submit to the Secretary a written statement signed by a designer that the stormwater collection, treatment and control

system authorized by this general permit is properly operating and maintained. Failure to submit a designer's re-statement of compliance shall constitute a violation of this general permit and may result in the revocation of an authorization to discharge under this general permit.

E. Corrective Action

Any erosion or associated discharge of sediment from the stormwater collection, treatment and control system shall be corrected immediately. Any deficiencies noted during inspections shall be corrected as soon as possible, but no later than thirty (30) days after detection.

F. Record Keeping

The permittee shall retain on-site a copy of all written records relating to the stormwater collection, treatment and control system and this general permit, including but not limited to calculations used to size STPs, until further notice by the Secretary. The permittee shall make such records available to the Secretary upon request.

G. Changes to a Permitted Development

A permittee shall notify the Secretary of any planned development or facility expansions or changes that may result in new or increased stormwater discharges. The Secretary may require the permittee to submit additional information on the proposed changes. The Secretary shall determine the appropriateness of continued inclusion under this general permit by the modified development or facility. The Secretary may amend the authorization to discharge or the Secretary may require the permittee to seek coverage under another general permit or an individual discharge permit.

PART VI. STANDARD CONDITIONS

A. Duty to Comply

The permittee shall comply with all terms and conditions of this general permit and all authorizations to discharge issued hereunder. Any permit noncompliance shall constitute a violation of 10 V.S.A. Chapter 47 and may be cause for an enforcement action and/or revocation, modification or suspension of the permittee's authorization to discharge under this general permit.

B. Duty to Reapply

If the authorized stormwater discharge is to continue after the expiration date of the authorization to discharge the permittee shall reapply for coverage under this general permit or under a new applicable general permit, if any, at least ninety (90) days prior to the expiration date of the authorization to discharge. If this general permit has expired and there is no new applicable general permit, then the permittee shall apply for coverage under an individual permit at least ninety (90) days prior to the expiration date of the authorization to discharge.

B. Continuation of the Expired General Permit

Provided the permittee has reapplied in accordance with Part VI.B of this general permit and is in full

compliance with all terms and conditions of this general permit, the authorization to discharge under the expired general permit shall continue in force and effect until an authorization to discharge under a new general permit or an individual permit is issued. Only those permittees previously authorized to discharge under the expired general permit may continue to discharge until such new general permit or individual permit is issued.

D. Transfer of Authorization to Discharge

An authorization to discharge issued pursuant to this general permit is not transferable without prior written approval of the Secretary. Provided all applicable fees under 3 V.S.A. §2822 have been paid, a permittee (either owner or permitted operator) may seek to transfer an authorization to discharge under this general permit by submitting a notice of transfer to the Secretary. The notice shall be submitted at least (30) days prior to the proposed date of transfer and shall include the following:

1. Notice of Intent number;
2. Name and address of the present permittee;
3. Name and address of the prospective permittee;
4. Proposed date of transfer;
5. A copy of the most recent inspection report as required by Part V.C of this general permit;
6. A statement that any deficiencies noted in any inspection report(s) have been corrected and;
7. A statement signed by the prospective permittee, stating that:
 - a. the conditions of the facility operation that contribute to, or affect, the stormwater discharge will not be materially different under the new ownership;
 - b. the prospective permittee has read and is familiar with the terms of this general permit and agrees to comply with all the terms and conditions of this general permit; and
 - c. the prospective permittee has adequate funding or other means to effect compliance with all the terms of this general permit.

E. Requiring an Individual Permit

The Secretary may require any person who files an application for coverage or who is already covered under this general permit to apply for an individual permit if the stormwater discharge does not qualify for coverage under this general permit or if the Secretary finds that an individual permit is required pursuant to Section 13.12D of the General Permit Rules.

F. Modification of General Permit

After notice and opportunity for public hearing, this general permit may be modified in accordance with Section 13.12.C.7 of the General Permit Rules.

G. Right of Entry

The permittee shall allow the Secretary or his/her authorized representatives, at reasonable times and upon the presentation of credentials, to:

1. Enter upon and inspect the permitted development and the stormwater collection, treatment and control system and to sample any discharge to determine compliance with this general permit; and
2. Have access to and copy any records required to be kept pursuant to this general permit.

H. Operating Fees

Pursuant to 3 V.S.A. §2822, stormwater discharges authorized by this general permit are subject to operating fees. The permittee shall submit all operating fees in accordance with procedures provided by the Secretary. Failure to pay all operating fees shall constitute a violation of this general permit.

I. Rights and Privileges

This general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations. This general permit does not obviate the necessity of obtaining such federal, state, or local permits or approvals as may be required by law.

J. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this general permit.

K. Responsibilities and Liabilities Under Other Laws

Nothing in this general permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under other laws, including but not limited to 10 V.S.A. §1281 (Oil and Hazardous Materials), 10 V.S.A. §905(9)(Wetlands) and the Vermont Wetland Rules, 10 V.S.A. §1259 (Underground Injection Wells) and the Vermont Groundwater Protection Rule.

L. Revocation

After notice and opportunity for public hearing, an authorization to discharge under this general permit may be revoked in accordance with Section 13.12.C.6 of the General Permit Rules.

M. Enforcement

Any violation of this general permit or relevant state law may result in the institution of legal proceedings pursuant to 10 V.S.A. §§ 1274 or 1275 and/or 10 V.S.A. Chapters 201 and 211. Such legal proceedings may include, but are not limited to, the issuance of orders, the levying of penalties and/or imprisonment. Legal proceedings may also be instituted if a person knowingly makes any false statement, representation or certification in any application, record, report, plan or other document, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method, in connection with this general permit and any authorization to discharge issued under this general permit. In addition, the Secretary may issue orders pursuant to 10 V.S.A. §§ 1272 and 1277 and may take any and all other enforcement actions, without limitation, provided by law.

N. Filing with Local Land Records

Each permittee shall file a copy of an authorization to discharge under this general permit in the local land records within fourteen (14) days of its issuance and a copy of the recording shall be provided to the Secretary within fourteen (14) days of its filing.

PART VII. TERM

The issuance of this permit may be appealed to the Vermont Water Resources Board, National Life Records Center Building, Drawer 20, Montpelier, VT 05620-3201, within 30 days of the date of this permit pursuant to 10 V.S.A. § 1269.

This permit is valid upon signing and shall remain in effect for ten years from the date of signing.

Dated at Waterbury, Vermont this 24th day of March, 2003

Jeffrey Wennberg, Commissioner
Department of Environmental Conservation

By Wallace McLean
Wallace McLean, Director
Water Quality Division

Appendix A

LIST OF WATERS PRINCIPALLY IMPAIRED BY COLLECTED STORMWATER RUNOFF

Waterbody ID	Basin	County	Waterbody Name
VT03-06	3	Rutland	Moon brook, mouth to 2.3 miles upstream
VT05-07	5	Franklin	Stevens brook, from I-89 downstream for approx 1.5 miles
VT05-09	5	Chittenden	Indian brook from lake upstream for 9.8 miles to Butlers Corner (RT 15)
VT05-10	5	Chittenden	Englesby Brook
VT05-11	5	Chittenden	Bartlett Brook
VT05-11	5	Chittenden	Munroe Brook
VT05-11	5	Chittenden	Potash Brook, from mouth to 5 miles upstream
VT08-02	8	Chittenden	Allen Brook, from 1 mile above mouth upstream 5.5 miles
VT08-02	8	Chittenden	Muddy Brook – tributary #4
VT08-02	8	Chittenden	Sunderland Brook (6.5 miles)
VT08-02	8	Chittenden	Centennial Brook (2 miles)
VT08-02	8	Chittenden	Morehouse Brook (1.5 miles)
VT08-20	8	Washington	Slide Brook (0.7 miles)
VT08-20	8	Washington	Rice Brook
VT08-20	8	Washington	Chase Brook, from mouth upstream for 0.5 mile
VT08-20	8	Washington	Clay Brook, inferno road area (0.1 miles)
VT10-06	10	Windsor	East Branch, Roaring Brook (0.5 mile)
VT10-06	10	Windsor	Roaring Brook (lowest 1.5 miles)
VT11-15	11	Windham	Styles Brook (2 miles)
VT11-15	11	Windham	Trib #1, no. Branch, Ball Mtn Brook, above golf course pond
VT12-05	12	Windham	No. Branch Deerfield River, 0.4 mile above Snow Lake to Tanney Brook Road