NPDES Number: VTR040000

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STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT 3-9014 (2010)
FOR STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS

This general permit is issued in accordance with the following state and federal laws and rules: the Vermont Water Pollution Control statute, 10 V.S.A. Chapter 47, including §§ 1259, 1263, 1264 and 1264a; the Vermont Water Pollution Control Rules, Chapter 13, including the rule governing general permits in Section 13.12; the federal Clean Water Act, as amended, 33 U.S.C.A. 1251 et seq., including 33 U.S.C.A. 1342(p); and regulations of the federal Environmental Protection Agency including but not limited to 40 CFR 122.26, 40 CFR 122.28 and 40 C.F.R. 122.30 to 122.37.

Except as provided in Subpart I.C. of this permit, operators of regulated small municipal separate storm sewer systems (MS4s) located within the State of Vermont who submit a Notice of Intent and a Stormwater Management Program (SWMP) in accordance with this permit are authorized to discharge pollutants to waters of the State and waters of the United States in accordance with the conditions and requirements set forth herein.

Regulated MS4s must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. For purposes of this permit, narrative effluent limitations requiring implementation of best management practices (BMPs) are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality.

I. COVERAGE UNDER THIS PERMIT

A. Permit Coverage

This general permit covers:

1. Small MS4s in Vermont urbanized areas (UA) as determined by the Bureau of the Census in the 2000 Census and any subsequent decennial census.

2. Small MS4s in the watersheds of stormwater-impaired waters as determined by the Secretary which are located fully or partially in a Vermont urbanized area, and

DRAFT

3. Small MS4s in such areas as defined by the Secretary when designating a small MS4 to be covered under this permit pursuant to 40 CFR 123.35(b).

This permit provides coverage specifically for the designated MS4s in the urban area municipalities of Burlington, Colchester, Essex, Essex Junction, Milton, Shelburne, South Burlington, Williston, and Winooski, the University of Vermont, the Burlington International Airport and the Vermont Agency of Transportation. This permit may also provide coverage for any additional small MS4s designated by the Secretary pursuant to 40 CFR 123.35(b).

B. Eligibility

1. This permit authorizes discharges of stormwater from MS4s, as defined in 40 CFR 122.26(b)(16). A MS4 is authorized to discharge under the terms and conditions of this general permit if it:

a) Operates a small MS4 within the permit area described in Subpart I.A.,

b) Is not a "large" or "medium" MS4 as defined in 40 CFR 122.26(b)(4) or (7), and

c) Submits a Notice of Intent (NOI) in accordance with Part II of this permit, and complies with the terms and conditions of this permit, and

d) Is located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or

e) Is designated by the Secretary as a MS4 that requires permit coverage pursuant to 40 CFR 123.35(b) or 122.32(a)(2).

f) The following discharges are eligible for authorization under this general permit:

(1) Stormwater discharges. This permit authorizes stormwater discharges to waters of the State and waters of the United States from the small MS4s identified in Subpart I.B.1, except as excluded in Subpart I.C.

(2) Non-stormwater discharges. A MS4 is authorized to commingle discharges from the following non-stormwater sources with discharges of stormwater from the MS4 provided that these sources are not substantial contributors of pollutants to the MS4:

(a) Water line flushing

(b) Landscape irrigation

DRAFT

(c) Diverted stream flows

(d) Rising ground waters

(e) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)

(f) Uncontaminated pumped ground water

(g) Discharges from potable water sources

(h) Rhodamine dye for scientific studies if used consistently with Section 3.4 of the Vermont Department of Environmental Conservation Water Quality Division Field Methods Manual (April 2006) or subsequent revisions

(i) Foundation drains

(j) Air conditioning condensate

(k) Irrigation water

(l) Springs

(m) Water from crawl space pumps

(n) Footing drains

(o) Lawn watering

(p) Flows from riparian habitats and wetlands, and

(q) Discharges from fire fighting activities.

C. Limitations on Coverage

1. This permit does not authorize:

a) Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are:

DRAFT

(1) In compliance with a separate NPDES permit, or

(2) Determined not to be a substantial contributor of pollutants to waters of the State and waters of the United States

b) Any discharge or activity that (1) results in the prohibited take of any federally listed threatened or endangered species or other violation of 16 U.S.C. § 1538 and its implementing regulations, (2) results in the prohibited taking, possession, or transport of any state or federally threatened or endangered species in violation of 10 V.S.A. § 5403, or (3) jeopardizes conservation program programs established by the Secretary under 10 V.S.A. § 5405.

c) Discharges that fail to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. A SWMP must include a description of the BMPs that will be used to ensure that this will not occur. The Secretary may require corrective action or an application for an individual permit or alternative general permit if an MS4 is determined by the Secretary to fail to satisfy appropriate water quality requirements of the Clean Water Act.

d) Discharges of any pollutant into any water for which either a Water Quality Remediation Plan has been established pursuant to 10 V.S.A. Section 1264 or a Total Maximum Daily Load (TMDL) has been either established or approved by EPA pursuant to Section 303(d) of the Clean Water Act unless the discharge is consistent with that Water Quality Remediation Plan and TMDL. This eligibility condition applies at the time a Notice of Intent for coverage (NOI) is submitted. If a condition changes after submission of a NOI, permit coverage will continue provided that the permittee complies with the applicable requirements of Part IV. The permittee must incorporate any limitations, conditions and requirements applicable to the discharges, including monitoring frequency and reporting required, into the SWMP in order to be eligible for permit coverage. For discharges not eligible for coverage under this permit, coverage must be received under an individual or other applicable general NPDES permit prior to discharging.

2. Discharges eligible for coverage under this permit may require coverage under additional authorities, including but not limited to:

a) Stormwater discharges associated with industrial activity as defined in 40 CFR 122.26(b) (14)(i)-(ix) and (xi).

b) Stormwater discharges associated with construction activity as defined in 40 CFR 122.26(b)(14)(x) or 40 CFR §122.26(b)(15).

DRAFT

c) Stormwater discharges associated with post-construction stormwater management pursuant to 10 V.S.A. §1264.

D. Application for Permit Coverage

1. To apply for authorization to discharge stormwater from a small MS4, a notice of intent (NOI) and SWMP must be submitted in accordance with the deadlines in Subpart II.A. of this permit. NOI forms are available on the Agency web site at: http://www.anr.state.vt.us/dec/waterq/stormwater/docs/sw_ms4-noi.pdf or by calling the Agency at 241-3770.

Note: If the Secretary notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (e. g. electronic submission of forms), an applicant may take advantage of those options to satisfy the NOI use and submittal requirements of Part II of this permit.

After the Secretary has determined that an NOI is administratively complete, the Secretary will provide public notice of the NOI to the clerk of all municipalities in which the MS4 discharges. The Secretary will also provide notice of the NOI to persons who have requested to be notified of permit applications pursuant to Section 13.3 c.(1)(c) of the Vermont Water Pollution Control Regulations. The public will be given a minimum of 10 days to submit comments on the NOI to the Secretary.

2. The Agency may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information. If the Secretary denies coverage to discharge under this general permit the MS4 must, within 60 days of that determination, submit an application for an individual permit.

3. Where the operator changes, or where a new operator is added after submittal of a NOI under Part II, a new NOI must be submitted in accordance with Part II prior to the change or addition.

E. Waivers from Permit Coverage

1. The Secretary may waive the requirements otherwise applicable to regulated small MS4s, as defined in 40 C.F.R.122.32(a)(1), and operated by a municipality under the following circumstances:

a) The Secretary may waive permit coverage if an MS4 serves a population of less than 1,000 within the urbanized area and it meets the following criteria:

DRAFT

(1) The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by this permit, and

(2) If the system discharges any pollutant(s) that have been identified as a cause of impairment of any water body to which it discharges, storm water controls are not needed based on wasteload allocations that are part of an EPA approved or established "total maximum daily load" (TMDL) that addresses the pollutant(s) of concern.

b) The Secretary may waive permit coverage if the MS4 serves a population under 10,000 and it meets the following criteria:

(1) All waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from the MS4 have been evaluated by the permittee or by the Secretary;

(2) For all such waters, the Secretary determines that stormwater controls are not needed based on wasteload allocations that are part of an EPA approved or established TMDL that addresses the pollutant(s) of concern or, if a TMDL has not been developed or approved, an equivalent analysis that determines sources and allocations for the pollutant(s) of concern;

(3) For the purpose of Subpart I.E.1.b. the pollutant(s) of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), stormwater, pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the MS4; and

(4) The Secretary determines that future discharges from an MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

c) The Secretary may rescind a waiver when there is evidence that the information required for granting the waiver has substantially changed. All waivers will be reviewed at the time of the reissuance of this general permit. The Secretary will consider any petition to review any waiver when the petitioner provides evidence that the information required for granting the waiver has substantially changed.

DRAFT

II. NOTICE OF INTENT REQUIREMENTS

A. Deadlines for Submission of Notice of Intent

1. If an applicant has been previously regulated as an operator of a MS4 and obtained coverage under the 2003 MS4 permit, then it shall submit a revised NOI and a SWMP or apply for an individual permit within 180 days of the effective date of this permit. If an applicant has been designated as an operator of a regulated MS4 prior to the effective date of this permit, but was not required to obtain coverage under the 2003 MS4 permit, then it shall submit a NOI and a SWMP or apply for an individual permit no later than 270 days after the effective date of this permit.

2. If an entity is designated by Secretary as an operator of a regulated MS4 under 40 CFR 122.32(a)(2), 122.32(c) or 123.35(b) after the effective date of this permit, then it is required to submit a NOI and provide its SWMP to the Secretary within 270 days of notice of designation.

3. An applicant is not prohibited from submitting a NOI after the dates provided in Subpart II.A. If a late NOI is submitted, authorization is only for discharges that occur after the date of submission. The Secretary reserves the right to take appropriate enforcement actions for any unpermitted discharges.

B. Contents of the Notice of Intent

The Notice(s) of Intent must be signed in accordance with Section VI.H. of this permit and must include, at a minimum, the following information:

1. Information on the Permittee:

a) The name of the entity and mailing address and telephone number.

b) Name of person responsible for overall coordination of the SWMP, and mailing address and telephone number.

c) An estimate of the area in the MS4.

2. Information on the Municipal Separate Storm Sewer System:

a) Identify the names of all known waters that receive a discharge from the MS4. Please indicate which, if any, of these waters are impaired and the nature of the impairment. If available, indicate the number of outfalls to each receiving water.

DRAFT

b) If an applicant is relying on another entity to satisfy one or more of the applicant's permit obligations, the identity of that entity(ies) and the element(s) it will be implementing.

c) Information on the chosen best management practices (BMPs) and the measurable goals for each of the stormwater six minimum control measures in Section IV.G. of this permit, the timeframe for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating the SWMP.

d) Provide all additional information required in the NOI relating to requirements to protect water quality, including but not limited to TMDL implementation requirements.

C. Submittal of Permit Fees

The NOI must be accompanied by payment of applicable stormwater permit fees. Stormwater permit fees are established by state statute and changed periodically. An applicant will be notified of current fees when requesting a NOI application form.

D. Where to Submit NOI

1. Submit the NOI, together with the correct permit fees to the following address:

MS4 Permit Coordinator
Vermont Agency of Natural Resources
Department of Environmental Conservation
Water Quality Division, Stormwater Management Program
103 South Main Street, Building 10 North
Waterbury, Vermont 05671-0408

E. Co-Permittees Under a Single NOI

A permittee may partner with other MS4s to develop and implement its SWMP. MS4s may also jointly submit a NOI. Each MS4 must fill out a NOI form. The SWMP must clearly describe which permittees are responsible for implementing each of the measures in the SWMP.

III. STORMWATER MANAGEMENT PROGRAM

The permittee must develop a written stormwater management program (SWMP). The SWMP must be signed in accordance with Section VI.H. of this permit. The SWMP shall provide measurable goals for the development and implementation of the six minimum measures described in Subparts IV.F and G and additional measures necessary to protect water quality described in Part IV.

DRAFT

IV. DISCHARGE REQUIREMENTS

A. Water Quality Based Requirements

Pursuant to Clean Water Act 402(p)(3)(B)(iii), this permit includes provisions to ensure that discharges from the permittee's small MS4 do not cause or contribute to an exceedance of water quality standards, in addition to requirements to reduce the discharge of pollutants to the maximum extent practicable set forth in this Part. The requirements found in Subparts IV.B and C that relate to discharges to impaired waters for which an approved TMDL exists, constitute the water quality based requirements of this permit.

B. Requirements to Meet Water Quality Standards

1. Discharges shall not cause or contribute to an exceedance of applicable water quality standards for the receiving water. Applicable water quality standards are the Vermont Water Quality Standards that are in place upon the effective date of this permit. In the absence of information suggesting otherwise, discharges will be presumed to meet the applicable water quality standards if the permittee fully satisfies the provisions of this permit.

2. If at any time the permittee becomes aware, or the Secretary determines, that a discharge causes or contributes to an exceedance of applicable water quality standards, the permittee must control the conditions causing or contributing to the exceedance of water quality standards. The permittee shall document in the SWMP measures and anticipated timeframes to control the conditions causing or contributing to the exceedances. The permittee shall comply with any additional requirements or schedules established by the Secretary, including any requirement to submit additional information concerning the potential cause of the exceedance. The Secretary reserves the right to notify the permittee that an alternative permit or individual permit is necessary in accordance with Subpart VI.R., to modify this permit if needed, and to take any enforcement action allowed under federal or state law.

C. Discharges to Impaired Waters

Impaired waters are those waters that the Secretary has identified pursuant to Section 303(d) of the Clean Water Act as not meeting the Vermont Water Quality Standards. Impaired waters encompass both those with approved Total Maximum Daily Loads (TMDLs), and those for which TMDL development has been identified as necessary, but for which a TMDL has not yet been approved by the Secretary or EPA. Stormwater impaired waters include those waters that the Secretary has listed as impaired primarily due to stormwater runoff on the EPA-approved State of Vermont 303(d) List of Waters.

DRAFT

1. Discharges to Impaired Waters with an Approved TMDL

a) For any discharge from the MS4 to impaired waters with an approved TMDL, the permittee shall comply with Subpart IV.C of this permit. The permittee shall describe in the SWMP all measures that are being used to address the requirements of Subpart IV.C. The Secretary may also notify the permittee of the need to comply with additional requirements that are consistent with any waste load allocation (WLA) or that an individual permit application is necessary in accordance with Subpart VI.R.

b) If the applicable TMDL does not specify a wasteload allocation or other requirements either individually or categorically for the MS4 discharge and the permittee has complied with the terms and conditions of this permit, and has undertaken measures and documented them in the SWMP to address the pollutant(s) addressed by the TMDL, then compliance with these conditions will be presumed adequate to meet the requirements of the TMDL.

c) If the applicable TMDL specifies a wasteload allocation or other requirements either individually or categorically for the MS4 discharge, the permittee shall describe in its annual reports all control measures which are currently or planned to be implemented to control the pollutants identified in the approved TMDLs. The permittee shall include in the annual reports and the SWMP the basis supporting the permittee's determination that such controls are adequate to meet the applicable TMDL requirements.

d) For those MS4s that discharge to stormwater-impaired waters with EPA-approved stormwater TMDLs, the permittee shall comply with the following requirements:

(1) The permittee shall provide all stormwater drainage infrastructure and watershed information requested by the Secretary as necessary for the development and review of the Flow Restoration Plan (FRP) prepared pursuant to Subpart IV.C.1.d.2 . This information shall be provided to the Secretary within twelve months of the effective date of this permit or designation as a regulated MS4, whichever is later.

(2) Each MS4 permittee, in consultation with the Agency, shall work cooperatively with any other MS4 permittees that discharge into the same stormwater impaired watershed to develop and submit a single, comprehensive FRP for the stormwater-impaired watershed. The FRP shall be submitted to the Secretary no later than three years after the effective date of this permit or the

DRAFT

permittee's designation as a regulated MS4, whichever is later. The FRP shall contain the following elements:

(a) Identification of Required Controls. An identification of the suite of necessary stormwater BMPs that will be used to achieve the flow restoration targets.

(b) Design and Construction Schedule. A design and construction schedule for the stormwater BMPs that have been identified as necessary to achieve the flow restoration targets. The schedule shall include a discussion of any necessary permits or other regulatory approvals necessary for implementation of the required BMPs. The schedule shall provide for implementation of the required BMPs as soon as practicable, but no later than 10 years from the effective date of this permit or the permittee's designation as a regulated MS4, whichever is later. The permittee shall include a discussion of why the proposed completion dates are "as soon as practicable."

(c) Financial Plan. A financing plan that estimates the costs for implementing the FRP and describes a strategy for financing the FRP. The financing plan shall include the steps each permittee will take to implement the financing plan.

(d) Regulatory Analysis. A regulatory analysis that identifies and describes what, if any, additional regulatory authorities, including but not limited to the authority to require low impact development BMPs, the permittee will need in order for the permittee to implement the FRP.

(e) Identification of Regulatory Assistance. An identification of regulatory assistance that the permittee will need from the Secretary in order to effectively implement the FRP. This should include an assessment of aspects of the FRP where the regulatory analysis indicates that the permittee's authority may not be sufficient to effectively implement the FRP. For example, use of residual designation authority.

(f) Third-Party Implementation. An identification of the name of any party, other than the permittee, that is responsible for implementing any portion of the FRP.

DRAFT

(3) Upon approval by the Secretary, the Flow Restoration Plan shall be a part of the permittee's SWMP.

(4) The permittee shall implement measures necessary to achieve the FRP within 10years after the effective date of this permit or the permittee's designation as a regulated MS4, whichever is later, to achieve the flow restoration targets. The Secretary may adjust a permittee's flow restoration targets during the term of this permit if justified by monitoring data or other relevant information.

(5) The permittee shall estimate and discuss in its annual report any progress towards meeting the flow restoration targets from its MS4 in the previous year. The permittee shall base the estimate on quantifiable measures attributable to implementation of its FRP and its overall SWMP. Examples of quantifiable measures include estimates of decreased impervious cover and stormwater retrofit practices.

(6) Within sixty (60) days of completion of implementation of each stormwater BMP identified in the FRP, the permittee shall submit to the Secretary a written statement signed by a designer that the identified BMP has been built or implemented and is currently operating in compliance with the plans and this general permit.

(7) Beginning in the second year following issuance of this permit, or designation as a regulated MS4, the permittee shall develop a program to identify opportunities for and provide assistance to landowners in the implementation of low impact BMPs such as maximizing disconnection, maximizing infiltration of stormwater runoff, preventing and eliminating soil erosion, and preventing and eliminating the delivery of pollutants to stormwater conveyances.

(8) As a result of a rigorous analysis of the requirements and the need for stormwater monitoring data summarized in the National Academy of Sciences report: Urban Stormwater Management in the United States (2009) and the Vermont Water Resources Board docket and proceedings described in "A Scientifically Based Assessment and Adaptive Management Approach to Stormwater Management"(2004) the Agency has instituted a network of stream flow gauging and rainfall gauging stations in the stormwater impaired watersheds. The Agency has funded the operation and maintenance of these stations for the years 2005-2009. As part of this long term monitoring effort:

DRAFT

(a) The permittee shall continue to fund the operation and maintenance of the flow gauging and rainfall gaging stations in its respective stormwater impaired watersheds. The Agency will work with the permittee on the appropriate data collection methods, maintenance and oversight of the gages and, if a lower cost gage is substituted for a current USGS gage, insure that the accuracy and usefulness of the data set is not disrupted. A nontraditional MS4, at a minimum, will coshare in the O&M cost of the gage for each watershed into which it discharges.

e) As set forth in Subpart I.C.l.d a permittee must be consistent with recommendations applicable to its MS4 in the implementation section of the Lake Champlain TMDL and any future TMDLs for impaired waters affected by the MS4 established or approved by EPA pursuant to section 303(d) of the federal Clean Water Act. The Lake Champlain Phosphorus TMDL recommendations for municipalities include: adoption of erosion controls (page 65), improved construction and maintenance practices for gravel backroads (page 69), promotion of riparian buffers and setbacks (page 76) and impervious surface minimization (page 76).

f) The assessment of whether a SWMP is consistent with TMDL recommendations will be based on the implementation and maintenance of best management practices not on estimates or measurements of pollutant loading.

2. Discharges to Impaired Waters without an Approved TMDL

If an MS4 discharges to an impaired water that is without an approved TMDL, the permittee shall comply with Part IV of this permit and address in its SWMP and annual reports how any discharges that have the potential to cause or contribute to the impairment will be controlled. An MS4 may achieve an increased level of control through additional BMPs or enhancement of existing BMPs.

D. Discharges to High Quality Waters

The requirements of this permit reflect the goal of the federal Clean Water Act and Vermont law to achieve and maintain water quality standards. Federal regulations pertaining to the state anti-degradation policies are found at 40 CFR §131.12. Vermont's anti-degradation policy is set forth in Section 1-03 of the Vermont Water Quality Standards. This draft general permit does not authorize any new or increased discharge to receiving waters unless the new or increased discharge is consistent with Vermont's anti-degradation policy.

DRAFT

E. Obligations Under other Permitting Programs

Nothing in this permit shall relieve a permittee of its obligations under any other state or federal permit or permitting program.

F. Requirements to Reduce Pollutants to the Maximum Extent Practicable - "The Six Minimum Measures"

1. A permittee shall develop, implement, and enforce a Stormwater Management Program (SWMP) designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. For purposes of this permit, narrative effluent limitations requiring implementation of best management practices (BMPs) are the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality. Implementation of best management practices for purposes of the six minimum measures consistent with the provisions of the SWMP constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable".

2. A permittee must develop and fully implement its SWMP for the six minimum measures in accordance with this permit by the expiration date of this permit. The SWMP must include the following information for each of the six minimum control measures described in Subpart IV.G. of this permit:

a) The person or persons responsible for implementing or coordinating the BMPs for the SWMP.

b) The best management practices (BMPs) that the permittee or another entity will implement for each of the stormwater six minimum measures. EPA has provided a list of sample BMPs on its web site: http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm

c) The measurable goals for each of the BMPs including, as appropriate, the months and years in which the required actions will be undertaken, including interim milestones and the frequency of the action. When possible, the measurable goal should include outcome measures related to the BMPs impact on water quality, stream channel stability, ground water recharge, and flood protection, EPA has provided guidance on developing measurable goals at: http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm;

3. In addition to the requirements listed above, a permittee must provide a rationale for how and why it selected each of the BMPs and measurable goals for the SWMP. The rationale should describe: 1) the stormwater problems to be

DRAFT

addressed by the BMP, 2) the major alternative BMPs to the ones selected and why they were not adopted, 3) the behavioral and institutional changes necessary to implement the BMP, and 4) expected water quality outcomes.

4. If applicable, describe the process for consultation with and involvement of public water suppliers with source water protection zones within the MS4.

G. Minimum Control Measures

The six minimum control measures that must be included in the SWMP are:

1. Public Education and Outreach on Stormwater Impacts

a) A permittee must implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies. The program shall include the steps that the public can take to reduce pollutants in stormwater runoff including an explanation of the problem of stormwater volume and solutions for reducing the amount of runoff volume reaching waters of the state. At a minimum, the permittee must:

(1) maintain on its own or in cooperation with other MS4s a web site with locally relevant stormwater management information and promote its existence and use, and:

(2) participate in the regional stormwater education and outreach strategy described in the March 10, 2008 memorandum of agreement between designated MS4s, the Chittenden County Regional Planning Commission and the Vermont Agency of Natural Resources, or

(3) in another regional stormwater education strategy if approved by the Agency, or

(4) submit a plan based on the following EPA guidance documents:

Fact Sheet 2.3, Stormwater Phase II Final Rule, Public Education and Outreach Minimum Control Measure (January, 2000), http://www.epa.gov/npdes/pubs/fact2-3.pdf;

National Menu of Best Management Practices for NPDES Stormwater Phase II, http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm;

DRAFT

Measurable Goals Guidance for Phase II Small MS4s, http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm or,

(5) Undertake the following activities:

(a) Develop or acquire informational brochures relevant to local stormwater concerns.

(b) Distribute stormwater related brochures at least twice in the first year and once in subsequent years. Distribution must be town-wide for municipalities. Non-traditional MS4s must distribute such materials to those who routinely use their facilities.

(c) Seek the cooperation of the local news media to run two or more stormwater-related news or feature stories per year.

(d) For municipalities: develop elementary, middle school or high school education curricula regarding local stormwater concerns based on new or existing material; conduct teacher training in at least 4 schools and in each subsequent year maintain program information and hold at least one refresher teacher training course.

(e) For nontraditional MS4s: Develop and implement public education campaigns (in addition to the brochure distributions) reasonably designed to educate frequent facility users.

b) If a permittee elects to formulate its own public education and outreach program rather than participating in the regional initiative or the schedule of BMPs set forth in this subpart, it must document its decision process for the development of a stormwater public education and outreach program. The rationale statement must address the overall public education program and the individual BMPs, measurable goals and responsible persons for the program. The rationale statement must include the following information, at a minimum:

(1) How the permittee plans to inform individuals and households about the steps they can take to reduce stormwater pollution.

(2) How the permittee plans to inform individuals and groups on how to become involved in the stormwater program (with activities

DRAFT

such as local stream and beach restoration activities).

(3) Describe the target audiences for the education program who are likely to have significant stormwater impacts (including residential, commercial, industrial and institutional entities) and why those target audiences were selected.

(4) What are the target pollutants and pollutant sources the public education program is designed to address?

(5) What are the behavioral changes that the permittee seeks to achieve in order to reduce and eliminate stormwater pollution.

(6) What is the outreach strategy, including the mechanisms (e.g., printed brochures, newspapers, media, workshops, etc.) the permittee will use to reach the target audiences, and how many people does the permittee expect to reach and what degree of behavioral change the permittee expects to achieve the outreach strategy over the permit term.

(7) Who is responsible for overall management and implementation of the stormwater public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.

(8) How the permittee selected the measurable goals for each of the BMPs and how will the permittee evaluate the success of this minimum measure in achieving goals for behavioral change and water quality.

c) The permittee must provide a summary of the expenses or an estimate of the cost associated with implementing this measure on an annual basis.

2. Public Involvement/ Participation

a) The permittee must implement a public involvement/ participation program, which at a minimum, complies with State and local public notice requirements, and includes at least three of the following:

(1) Form a citizen stormwater advisory panel.

(2) Establish or support a water quality monitoring program involving citizen volunteers.

(3) Institute an on-going public workshop series on stormwater awareness.

DRAFT

(4) Institute a continuing storm drain stenciling project.

(5) Sponsor periodic community stream corridor clean-up days.

(6) Establish and support a citizen “stormwater watch” group.

(7) Create or support an “adopt-a-stream” program.

(8) Undertake a program similar to the above with the permission of the Secretary.

(9) As a substitute for one or more of these activities, the permittee may contribute monies to sponsor the regional stormwater education and outreach strategy described in the agreement between the designated MS4s, the Chittenden County Regional Planning Commission and the Vermont Agency of Natural Resources dated, March 10, 2008 and its subsequent amendments or to the Chittenden County regional public involvement and participation strategy if approved by the agency.

(10) As an alternative to implementing three activities from the above list the permittee may participate in a regional public involvement and participation strategy if approved by the Secretary.

b) If a permittee elects to implement a public involvement/participation program rather than contribute to the regional stormwater education and outreach strategy described in the March 10, 2008 memorandum of agreement between designated MS4s, the Chittenden County Regional Planning Commission and the Vermont Agency of Natural Resources, and its subsequent amendments, the permittee must document the decision process for the development of a stormwater public involvement/participation program. The rationale statement must address your overall public involvement/participation program and the individual BMPs, measurable goals, and responsible persons for the program. The rationale statement must include the following information, at a minimum:

(1) Describe the plan to actively involve the public in the further development and implementation of the permittee’s program.

(2) Describe the target audiences for the public involvement program, including a description of the types of ethnic and economic groups engaged. Permittees are encouraged to actively involve all potentially affected stakeholder groups, including commercial and industrial businesses, trade associations,

DRAFT

environmental groups, homeowners associations, and educational organizations, among others.

(3) Describe the types of public involvement activities included in the program.

(4) Describe the structure of responsibility the overall management and implementation of the stormwater public involvement/ participation program and, if different, describe the responsible entities for each of the BMPs identified for this program.

(5) Describe how the success of this minimum measure will be evaluated; including measurable goals for each of the BMPs was selected.

c) A permittee must provide a summary of the expenses or an estimate of the cost associated with implementing this measure on an annual basis.

d) A permittee must make its SWMP and annual reports to the Agency available electronically on its web site. The SWMP and the reports should be posted no more than six months after their due date.

3. Illicit Discharge Detection and Elimination

a) A permittee must:

(1) Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in 40 CFR § 122.26(b) (2)) into its small MS4.

(2) Develop, if not already completed, and maintain a storm sewer geographic information systems (GIS) or AutoCAD map of the MS4, showing the location of all outfalls and the names and location of all waters of the State and waters of the United States that receive discharges from those outfalls. Permittees are encouraged to work with the regional planning commission and the Agency to acquire funding assistance for maintenance and updating of MS4 maps.

(3) To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into the permittee's storm sewer system and implement appropriate enforcement procedures and actions. Nontraditional MS4s shall adopt a policy prohibiting the discharge of foreign substances into storm drains and suitable means of

DRAFT

enforcing it.

(4) Develop and implement a plan to detect and address non-stormwater discharges, with emphasis on outfalls in the stormwater impaired watershed(s) and random illegal dumping to the system, such as the dumping of RV wastes, used oil, paint, etc. In developing the plan the permittee should collect or utilize existing local or Agency data. The permittee may conduct such investigations itself, contract for investigation; coordinate with storm drain investigation activities of others, or any combination of these approaches.

(5) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

(6) Address the following categories of non-stormwater discharges or flows (i.e., illicit discharges) only if the permittee identifies them as significant contributors of pollutants to the small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR § 35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, flows from riparian habitats and wetlands, and discharges from fire fighting activities.

(7) Provide the Secretary with an annual status report of monitoring activities conducted and corrective actions taken. The final annual report required by this permit shall summarize the monitoring activities and corrective actions taken during the course of this permit.

(8) Provide a summary of the expenses or an estimate of the cost associated with implementing this measure on an annual basis.

b) A permittee must document its decision making process for the development of a stormwater illicit discharge detection and elimination program. The rationale statement must address the overall illicit discharge detection and elimination program and the individual BMPs, measurable goals, and responsible persons for the program. The rational statement must include the following information, at a minimum:

(1) How the permittee will maintain and improve the storm sewer map showing the location of all outfalls and the names and

DRAFT

location of all receiving waters. Describe the sources of information the permittee used for the maps, and how it plans to verify the outfall locations with field surveys.

(2) The mechanism (ordinance or other regulatory mechanism) the permittee used to effectively prohibit illicit discharges into the MS4 and why the permittee chose that mechanism. Include a copy of the relevant ordinance or policy with the program.

(3) The plan to ensure through appropriate enforcement procedures and actions that the illicit discharge ordinance (or other regulatory mechanism) is implemented.

(4) The plan to detect and address illicit discharges to the system, including discharges from illegal dumping and spills. The plan must include dry weather field screening for non-stormwater flows and field tests of selected chemical parameters as indicators of discharge sources. The plan must also address on-site sewage disposal systems that flow into the storm drainage system. The plan must address the following, at a minimum:

(a) Procedures for locating priority areas which include areas with higher likelihood of illicit connections (e. g., areas with older sanitary sewer lines, for example) or ambient sampling to locate impacted reaches.

(b) Procedures for tracing the source of an illicit discharge, including the specific techniques that will be used to detect the location of the source.

(c) Procedures for removing the source of the illicit discharge.

(d) Procedures for program evaluation and assessment.

(5) How the permittee plans to inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. Include how this plan will coordinate the public education minimum measure and the pollution prevention/good housekeeping minimum measure programs.

(6) Who is responsible for overall management and implementation of the stormwater illicit discharge detection and elimination program and, if different, who is responsible for each of the BMPs identified for this program.

DRAFT

(7) How the permittee will evaluate the success of this minimum measure, including how the measurable goals for each of the BMPs was selected.

4. Construction Site Stormwater Runoff Control

a) Pursuant to federal regulations at 40 C.F.R. 122.34(b)(4) the permittee must to the extent allowable under state or local law develop, if it has not already done so, and enforce a program to reduce pollutants in any stormwater runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

The Secretary is also required to regulate stormwater runoff from construction activities that result in a land disturbance of greater than or equal to one acre. The Secretary has issued General Permit 3-9020 (2008) for stormwater runoff from construction activities which result in a land disturbance equal to or greater than one acre. If a construction project with a potential to discharge stormwater, which results in a land disturbance of equal to or greater than one acre does not qualify for coverage under one of these general permits then an individual NPDES permit from the Secretary is required. Projects subject to Act 250 jurisdiction are subject to requirements for controlling construction-related erosion under that program as well.

Instead of adopting its own program to regulate stormwater runoff from construction activities that meet the requirements of 40 C.F.R 122.34(b)(4) a permittee may qualify for coverage under this general permit by developing and implementing a program to assist the Secretary in the Agency's regulation of such discharges. Any program for assisting the Agency must include the development and implementation of, at a minimum:

(1) Procedures to identify construction activities meeting the one-acre and five-acre regulatory thresholds and to report such activities to the Secretary.

(2) Procedures to assist the Secretary in inspecting permitted construction sites for compliance with the conditions of their permits. In conducting such inspections the permittee's staff will not be expected to be familiar with the erosion control plans. However, the permittee should inspect for obvious signs of

DRAFT

noncompliance such as eroding soils and turbid waters. The permittee will only be expected to report suspected violations to the Agency and not to initiate an independent enforcement action.

(3) In reporting these activities the nontraditional and traditional MS4s will cooperate when stormwater runoff moves across MS4 jurisdictional boundaries.

(4) Procedures to assure that construction activities undertaken by the permittee are properly permitted and implemented in accordance with the terms of the permit.

(5) In conjunction with the review required by Subpart IV.G.5.b., the permittee shall review existing policies; planning, zoning and subdivision regulations; and ordinances to determine their effectiveness in managing construction-related erosion and sediment and controlling waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality. The policies, regulations, and ordinances must also be reviewed for their consistency with the requirements of the Secretary's general permits for stormwater runoff from large and small construction sites and construction erosion guidelines for low impact development. The permittee may adopt requirements that complement or are more stringent than the requirements of the Secretary.

b) The permittee must adopt an erosion control ordinance, or zoning or subdivision regulation, or other regulatory mechanism, or if a nontraditional MS4 a policy which, at a minimum, regulates development activities not subject to state or federal erosion control requirements.

(1) The permittee must provide a summary of the expenses or an estimate of the cost associated with implementing this measure on an annual basis.

c) The permittee must document its decision making process for the development of a construction site stormwater control program. The rationale statement must address the overall construction site stormwater control program and the individual BMPs, measurable goals, and responsible persons for the program. The rationale statement must include the following information, at a minimum:

(1) The mechanism (ordinance or other regulatory mechanism) the permittee uses to require erosion and sediment controls at construction sites and why that mechanism was chosen. Include a

DRAFT

copy of the relevant ordinance or policy with the SWMP.

(2) The permittee's procedures for site inspection and enforcement of control measures, including how the permittee will prioritize sites for inspection and how it will assist the Agency in identifying and inspecting projects subject to the Agency's construction general permits.

(3) Who is responsible for overall management and implementation of the construction site stormwater control program and, if different, who is responsible for each of the BMPs identified for this program.

(4) Describe how the permittee will evaluate the success of this minimum measure, including how the permittee selected the measurable goals for each of the BMPs.

5. Post-Construction Stormwater Management for New Development and Redevelopment

a) Pursuant to 40 C.F.R 122.34(b)(5) a permittee must develop, if it has not already done so, implement, and to the extent allowable under State or local law, enforce a program to address post-construction stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts.

Pursuant to 10 V.S.A. §§ 1263, 1264 and Agency rules and procedures adopted there under, the Secretary is required to regulate post-construction stormwater runoff from activities that result in creation of new or expansion of existing impervious surface of greater than one acre. Therefore, there is a gap between what the Agency's post-construction stormwater management permit program regulates and the land disturbances equal to one or more acre of land that MS4s must regulate.

To qualify for coverage under this general permit a permittee must develop, if it has not already done so, implement, and enforce a program to reduce pollutants in any post-construction stormwater runoff to the small MS4 from activities that result in a land disturbance of greater than or equal to one acre and that are not subject to regulation under the Agency's post-construction stormwater management permit program. The permittee must also develop and implement a program to assist the Secretary in the regulation of sites, which are within the jurisdiction of the Agency's post-construction stormwater management permit program.

DRAFT

Nontraditional and traditional MS4s must cooperate when stormwater runoff moves across MS4 jurisdictional boundaries.

b) In conjunction with the review required by Subpart IV.G.4.a.5., the permittee must review existing policies; planning, zoning and subdivision regulations; and ordinances to determine their effectiveness in managing stormwater runoff that discharges into the small MS4 from new development and redevelopment projects to prevent adverse impacts to water quality. The policies, regulations, and ordinances must also be reviewed for their consistency with the requirements of the Secretary's rules and general permits regulating post-construction stormwater runoff. The permittee may adopt requirements that complement or are more stringent than the requirements of the Secretary.

c) The permittee must develop, if it has not already done so, and implement procedures to identify new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale. The permittee must also develop, if it has not already done so, and implement procedures to report to the Secretary such activities that have one or more acres of impervious surface.

d) For stormwater runoff that discharges into the small MS4 from new development and redevelopment projects that disturb greater than or equal to one acre (including projects less than one acre that are part of a larger common plan of development or sale) and that are not subject to regulation under the Agency's post-construction stormwater management permit program the permittee must adopt, if it has not already done so, an ordinance, planning, zoning and subdivision regulation, or other regulatory mechanism, or if the permittee is a nontraditional MS4, a policy that:

(1) Prevents or minimizes water quality impacts from post-construction stormwater runoff from such developments; and

(2) Utilizes a combination of structural, non-structural and low impact best management practices (BMPs) which are appropriate for the community and meet, at a minimum, requirements in the Agency's 2002 Vermont State Stormwater Management Manual (and any amendments thereto); and

(3) Ensures adequate long-term operation and maintenance of BMPs.

DRAFT

e) For stormwater runoff that discharges into the small MS4 from new development and redevelopment projects that disturb greater than or equal to one acre (including projects less than one acre that are part of a larger common plan of development or sale) and that are subject to regulation under the Agency's post-construction stormwater management permit program the permittee must:

(1) Develop, if it has already not done so, and implement procedures to assist the Secretary in inspecting permitted development and redevelopment projects for compliance with the conditions of their permits. In conducting such inspections staff will not be expected to be familiar with the post-construction site plans submitted to the Secretary by the permittee. However, the permittee should inspect for obvious signs of noncompliance such as eroding soils, turbid water, structural deficiencies, catch basins in need of cleaning and other readily observable problems. The permittee will only be expected to report suspected violations to the Agency and not to initiate an independent enforcement action. Nontraditional and traditional MS4s will cooperate when stormwater runoff moves across MS4 jurisdictional boundaries.

(2) Develop, if the permittee has not already done so, and implement procedures to assure that development and redevelopment activities undertaken by the permittee, including road projects, are properly permitted and constructed and maintained in accordance with the terms of the permit.

(3) The permittee must provide a summary of the expenses or an estimate of the cost associated with implementing this measure.

f) The permittee must document its decision making process for the development of a program for management of post-construction storm water runoff. The rationale statement must address the overall strategy for post-construction storm water management and the individual BMPs, measurable goals, and responsible persons for the program. The rationale statement must include the following information, at a minimum:

(1) What are the mechanisms (ordinance or other regulatory mechanisms) the permittee will use to address post-construction runoff from new developments and redevelopments that result in a land disturbance of greater than or equal to one acre and that are not subject to the Agency's post-construction stormwater management permit program and why did the permittee choose those mechanisms. Include a copy of the relevant ordinance with the program.

DRAFT

(2) How the permittee will ensure the long-term operation and maintenance (O&M) of the selected BMPs. Options to help ensure that future O&M responsibilities are clearly identified include an agreement between the permittee and another party such as the post-development landowners or a stormwater utility.

(3) The permittee's procedures for site inspection and enforcement, the program to address post-construction runoff from new developments and redevelopments that result in a land disturbance of greater than or equal to one acre and that are not subject to the Agency's post-construction stormwater management permit program, including how the permittee will prioritize sites for inspection. Also describe the procedures for assisting the Agency in identifying and inspecting projects subject to the Agency's post-construction stormwater permit program.

(4) Who is responsible for overall management and implementation of the program for management of post-construction storm water runoff and, if different, who is responsible for each of the BMPs identified for this program.

(5) How the permittee will evaluate the success of this minimum measure, including how it selected the measurable goals for each of the BMPs.

6. Pollution Prevention/ Good Housekeeping for Municipal Operations

a) The permittee must describe its operation and maintenance program for preventing or reducing pollutant runoff from municipal operations, including, at a minimum: new construction and land disturbance maintenance of fleet and buildings, all municipal garages, parks, open space, construction and maintenance practices for gravel backroads, and stormwater systems. The program must include a training component, maintenance schedules, and inspection procedures for long term structural controls. For all facilities including public parks and recreational fields where lawn or garden fertilizers are used in the facility operation the permittee must prohibit the use of any phosphorus containing fertilizer unless warranted by a current soil test. If a phosphorus fertilizer is used, a copy of the soil test for those facilities must be performed annually and submitted with the annual report. This requirement does not apply to community gardens.

(1) Compliance with this measure for municipal garages may be achieved by participation in the Agency's Municipal Compliance

DRAFT

Assistance Program or another facility audit program approved by the Secretary.

(2) The permittee must provide a list of industrial facilities that it owns or operates that affect its MS4 and are subject to an individual NPDES Multi-Sector Permit or the Agency's General Permit 3-9003 Multi-Sector General Permit for Stormwater Discharges Associated With Industrial Activity (2006) (NPDES Number: VTR 050001) (MSGP). Include the NPDES permit number, a copy of the Industrial NOI form or the "no exposure" certification for each facility. A "no exposure certification" or a Stormwater Pollution Prevention Plan prepared for an industrial facility that the permittee owns or operates which is in compliance with the requirements of an individual NPDES permit or the MSGP satisfies the requirements of Section IV.G.6. for that facility.

(3) For all stormwater impaired watersheds in the municipality the permittee must provide a comprehensive list of industrial facilities in order to assist the Agency in determining compliance with General Permit 3-9003. The list should include the name of the industrial facility, the street address, property owner, parcel ID and any known standard industrial code (SIC) for the facility. This list shall be provided to the Agency no later than December 31, 2010.

(4) The permittee must provide a summary of the expenses or an estimate of the cost associated with implementing this measure.

b) The permittee must document its decision making process for the development of a pollution prevention/good housekeeping program for municipal operations. The rationale statement must address the overall pollution prevention/good housekeeping program and the individual BMPs, measurable goals, and responsible persons for the program. The rationale statement must include the following information, at a minimum:

(1) The operation and maintenance program to prevent or reduce pollutant runoff from municipal operations. The program must specifically list the municipal operations that are impacted by this operation and maintenance program.

(2) The program should address the following areas:

(a) Maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatables and other pollutants to the MS4.

DRAFT

(b) Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, gravel backroads, municipal parking lots, maintenance and storage yards, waste transfer stations, fleet or maintenance shops with outdoor storage areas, and salt/sand storage locations and snow disposal areas the permittee operates.

(c) Procedures for compliance with any applicable state and federal regulations for the proper disposal of waste removed from the MS4 and the municipal operations, including dredge spoil, accumulated sediments, floatables, and other debris.

(3) Who is responsible for overall management and implementation of the pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.

(4) How the permittee will evaluate the success of this minimum measure, including how it selected the measurable goals for each of the BMPs.

H. Sharing Responsibility

Implementation of one or more of the minimum measures or measures taken to implement a TMDL may be shared with another entity, or another entity may fully take over the measure. A permittee may rely on another entity only if:

1. The other entity, in fact, implements the control measure;

2. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.

3. The other entity agrees to implement the control measure on the permittee's behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the SWMP. If the other entity agrees to report on the minimum measures or TMDL implementation activities, the permittee must supply the other entity with the reporting requirements contained in this permit. If the other entity fails to implement the control measure on behalf of the permittee, then the permittee remains liable for any discharges due to that failure to implement.

DRAFT

I. Reviewing and Updating Storm Water Management Programs

1. SWMP Review: The permittee must perform an annual review of its SWMP in conjunction with preparation of the annual report required under Subpart V.C.

2. SWMP Update: A permittee may change its SWMP during the life of the permit in accordance with the following procedures:

a) Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to the Secretary.

b) Changes replacing an ineffective or unfeasible BMP specifically identified in the SWMP with an alternate BMP may be requested at any time. Unless denied by the Secretary, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If the request is denied, the Secretary will send you a written response giving a reason for the decision. Modification requests must include the following:

(1) An analysis of why the BMP is ineffective or infeasible (including cost prohibitive),

(2) Expectations on the effectiveness of the replacement BMP, and

(3) An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.

c) Change requests or notifications must be made in writing and signed in accordance with Subpart VI.H.

3. SWMP Updates Required by the Secretary: The Secretary may require changes to the SWMP as needed to:

a) Address impacts on receiving water quality caused, or contributed to, by discharges from the MS4 system.

b) Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or

c) Include such other conditions deemed necessary by the Secretary to comply with the goals and requirements of the Clean Water Act.

d) Changes requested by the Secretary must be made in writing, set forth the time schedule for the permittee to develop the changes, and offer the permittee the opportunity to propose alternative program changes to meet

DRAFT

the objective of the requested modification. All changes required by the Secretary will be made in accordance with 40 CFR 124.5, 40 CFR 122.62, or as appropriate 40 CFR 122.63.

4. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation: The permittee must implement the SWMP on all new areas added to the permittee's portion of the municipal separate storm sewer system (or for which the permittee becomes responsible for implementation of stormwater quality controls) as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.

a) Within 90 days of a transfer of ownership, operational authority, or responsibility for SWMP implementation, a permittee must have a plan for implementing its SWMP on all affected areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the SWMP must be included in the annual report.

b) Only those portions of the SWMP specifically required as permit conditions shall be subject to the modification requirements of 40 CFR 124.5. Addition of components, controls, or requirements by the permittee(s) and replacement of an ineffective or infeasible BMP implementing a required component of the SWMP with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the SWMP and not modifications to the permit.

V. MONITORING, RECORD KEEPING, AND REPORTING

A. Monitoring

1. A permittee must evaluate program compliance, the appropriateness of identified best management practices, and progress toward achieving identified measurable goals.

2. When a permittee conducts monitoring of illicit discharges pursuant to Subpart IV.G.3.a.4. all samples and measurements taken shall be representative of the monitored activity.

3. Records of monitoring information shall include:

a) The date, exact place, and time of sampling or measurements;

DRAFT

b) The names(s) of the individual(s) who performed the sampling or measurements;

c) The date(s) analyses were performed;

d) The names of the individuals who performed the analyses;

e) The analytical techniques or methods used; and

f) The results of such analyses.

4. Discharge Monitoring Report. Monitoring results must be reported on a Discharge Monitoring Report (DMR).

5. The Agency may require a permittee on a case-by-case basis to undertake water quality monitoring at an individual stormwater discharge point if there is evidence of an unusual discharge or if it is necessary to verify the effectiveness of BMPs and other control measures in the permittee's SWMP.

B. Record keeping

1. A permittee must retain records of all monitoring information, copies of all reports required by this permit, copies of Discharge Monitoring Reports (DMRs), a copy of the NPDES permit, and records of all data used to complete the application (NOI) for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the Secretary at any time.

2. A permittee must submit its records to the Secretary only when specifically asked to do so. It must retain a copy of the SWMP required by this permit (including a copy of the permit language) at a location accessible to the Secretary. A permittee must make its records, including the notice of intent (NOI) and the copy of the SWMP, available to the public if requested to do so in writing.

C. Reporting

A permittee must submit annual reports to the VTDEC Water Quality Division, Stormwater Management Program by April 1 of each year of the permit term. The report must include:

1. The status of the permittee's compliance with permit conditions, an assessment of the appropriateness of the identified best management practices, progress towards achieving implementation of BMPs necessary to meet TMDL requirements and progress towards achieving the statutory goal for the six minimum measures of reducing the discharge of pollutants to the MEP, and the

DRAFT

measurable goals for each of the minimum control measures and TMDL implementation measures;

2. Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at meeting TMDL requirements and the success of the six minimum measures.

3. A summary of the stormwater activities the permittee plans to undertake during the next reporting cycle (including an implementation schedule);

4. Proposed changes to the permittee's SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements; and

5. Notice that the permittee is relying on another government entity to satisfy some of its permit obligations (if applicable).

VI. STANDARD PERMIT CONDITIONS

A. Duty to Comply

A permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of 10 V.S.A. Chapter 47 and rules hereunder and the federal CWA and rules there under and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application

B. Penalties for Violations of Permit Conditions

1. 10 V.S.A., Section 1275(a) provides that:

Any person who violates any provision of this subchapter 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 $25,000.00 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.

2. 10 V.S.A. Section 8010(c) provides that:

A penalty of not more than $25,000.00 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 $10,000.00 for each day the violation continues. The maximum amount of penalty assessed under this subsection shall not exceed $100,000.00.

DRAFT

3. 10 V.S.A. Section 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 or by any permit, rule, regulation, or order issued under this subchapter, shall upon conviction, be punished by a fine of not more than $10,000.00 or by imprisonment for not more than six months, or by both.

C. Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with 3 V.S.A. § 814(b) and remain in force and effect. Any permittee who was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this permit, at which time a permittee must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or

2. Issuance of an individual permit for your discharges; or

3. A formal permit decision by the Agency not to reissue this general permit, at which time a permittee must seek coverage under an alternative general permit or an individual permit.

D. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a 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 permit.

E. Duty to Mitigate

A permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

F. Duty to Provide Information

A permittee must provide any new information that is requested to determine compliance with this permit or other information.

DRAFT

G. Other Information

If a permittee becomes aware that it has failed to submit any relevant facts in its Notice of Intent or submitted incorrect information in the Notice of Intent or in any other report to the Secretary, it must promptly submit such facts or information.

H. Signatory Requirements

All Notices of Intent, reports, certifications, or required information submitted to the Agency, or that this permit requires be maintained shall be signed by a principal executive officer, ranking elected official or other duly authorized employee and certified as follows:

"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 on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

I. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege, nor does it authorize any injury to private property nor any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

J. Proper Operation and Maintenance

A permittee must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of this permit and with the conditions of the SWMP. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed only when the operation is necessary to achieve compliance with the conditions of the permit.

K. Inspection and Entry

A permittee shall allow the Secretary or his or her authorized representative (including an authorized contractor acting as a representative of the Secretary) upon the presentation of credentials and at reasonable times to:

DRAFT

1. Enter the premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

L. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

M. Permit Transfers

An authorization to discharge may be transferred by submitting a notice of transfer to the Secretary. The Secretary may require modification or revocation and reissuance of a permittee's coverage under this general permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act. The notice shall be submitted at least thirty (30) days prior to the proposed date of transfer and shall include the following:

1. The permittee's name and address;

2. The name and address of the prospective permittee;

3. The name and daytime telephone number of the individual currently responsible for overseeing the administration of this permit;

4. The proposed date of transfer; and

5. A statement signed by the prospective permittee, stating that:

a) The conditions of the operations that contribute to, or affect, the discharge will not be materially different;

b) The prospective permittee has read and is familiar with the terms of the permit and agrees to comply with all the terms and conditions of the

DRAFT

permit, and;

c) The prospective permittee has adequate funding or other means to effect compliance with all the terms of the permit.

N. Anticipated Noncompliance

A permittee shall give advance notice to the Agency of any planned changes in the permitted small MS4 or activity that may result in noncompliance with this permit.

O. State Environmental Laws

1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act.

2. No condition of this permit releases a permittee from any responsibility or requirements under other environmental statutes or regulations.

P. Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

Q. Procedures for Modification and Revocation

After notice and opportunity for public hearing this permit may be modified in accordance with General Permit Rules Section 13.12 C.7. The Secretary reserves the right to revoke authorization to discharge under this general permit in accordance with General Permit Rules, Section 13.12 C.6.

R. Requiring an Individual Permit or an Alternative General Permit

1. Request by the Secretary. The Secretary may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit in accordance with Agency's General Permit Rules, Section 13.12 D. Any interested person may petition the Secretary to take action under this paragraph. Where the Secretary requires an application for an individual NPDES permit, the Secretary will notify the entity in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for filing the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it

DRAFT

applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the Secretary. The Secretary may grant additional time to submit the application upon request of the applicant. If an individual NPDES permit application is not submitted in a timely manner as required by the Secretary under this paragraph, then the applicability of this permit is automatically terminated at the end of the day specified by the Secretary for application submittal.

2. Request by permittee. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, an individual application must be submitted in accordance with the requirements of 40 CFR 122.33(b) (2), with reasons supporting the request, to the Secretary. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited are adequate to support the request.

S. General Permit Termination.

When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or a permittee is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an operator otherwise subject to this permit or the operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Secretary.

T. Limitation

Nothing in this permit shall be construed as having relieved, modified, or in any manner affected your on-going obligation to comply with all other federal, state or local statues, regulations or directives applicable to you in the operation of your activities, nor does it relieve you of the obligation to obtain all other necessary state, local and federal permits.

VII. DEFINITIONS

All definitions contained in Section 502 of the Act and 40 CFR 122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the event of a conflict, the definition found in federal or state statute or regulation takes precedence.

1. Agency means the Vermont Agency of Natural Resources

DRAFT

2. Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State and waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

3. Control Measure as used in this permit, refers to any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to waters of the State and waters of the United States.

   CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U. S. C. 1251 et. seq. Discharge, when used without a qualifier, refers to discharge of a pollutant as defined at 40 CFR 122.2.

4. Designer means any person whose qualifications are acceptable to the Secretary.

5. EPA means the United States Environmental Protection Agency.

6. Flow restoration targets means the high and low flow targets as stated in the stormwater TMDLs.

7. Illicit Connection means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

8. Illicit Discharge is defined at 40 CFR 122.26(b) (2) and refers to any discharge to a municipal separate storm sewer that is not entirely composed of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from fire fighting activities.

9. MEP is an acronym for "Maximum Extent Practicable", and refers to the requirement set forth in 402(p)(3)(B)(iii) of the federal Clean Water Act (33 U.S.C.A. 1342(p)(3)(B)(iii) that permits for discharges from municipal storm sewers include controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Secretary determines appropriate for the control of such pollutants. A discussion of MEP as it applies to small MS4s is found at 40 CFR 122.34(a).

10. MS4 is an acronym for "Municipal Separate Storm Sewer System" and is used to refer to a Large, Medium, or Small Municipal Separate Storm Sewer System. The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities.

DRAFT

11. Municipal Separate Storm Sewer is defined at 40 CFR 122.26(b) (8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the State and waters of the United States; (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

12. NOI is an acronym for Notice of Intent to be covered by this permit and is the mechanism used to register for coverage under a general permit.

13. "Non-traditional MS4" means a subdivision of a state or local government that owns or operates an MS4, including the University of Vermont, the Burlington International Airport and the Vermont Agency of Transportation.

14. Secretary means the Secretary of the Vermont Agency of Natural Resources.

15. Small Municipal Separate Storm Sewer System is defined at 40 CFR 122.26(b) (16) and refers to all separate storm sewers that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the State and waters of the United States, but is not defined as a large or medium municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

16. Stormwater is defined at 40 CFR 122.26(b) (13) and means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

17. Stormwater Management Program or SWMP refers to a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system.

18. VTrans means the Vermont Agency of Transportation.

DRAFT

19. Waters of the State means all waters as defined in 10 V.S.A. §1251.

20. Waters of the United States means all waters defined in 40 C.F.R. Section 122.2.

21. Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

VIII. RIGHTS TO APPEAL TO THE ENVIRONMENTAL COURT

Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of the decision. The appellant must attach to the Notice of Appeal the entry fee of $225.00, payable to the state of Vermont. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Court; and must be signed by the appellant or their attorney. In addition, the appeal must give the address or location and description of the property, project or facility with which the appeal is concerned and the names of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is 2418 Airport Road, Suite 1, Barre, VT 05641 (802)828-1660.

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

Dated at Waterbury, Vermont this __ day of _____, 2010

By _____
Justin Johnson, Commissioner
Department of Environmental Conservation

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