

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
GENERAL PERMIT 3-9014 (as amended February 19, 2004)  
FOR STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE  
STORM SEWER SYSTEMS

Authorization to discharge under the National Pollutant Discharge Elimination System

This 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, and 1264; the Vermont Water Pollution Control Rules, Chapter 13, including the rule governing general permit 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 the regulations of the federal Environmental Protection Agency including 40CFR 122.26, 40 CFR 122.28 and 40 C.F.R. 122.30 to 122.37.

Except as provided in Part 1.3 of this permit, operators of small municipal separate storm sewer systems (MS4s) located within the State of Vermont who submit a Notice of Intent and a stormwater management program in accordance with Part 2 of 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.

1. Coverage under this Permit

1.1 Permit Coverage

This general permit covers:

- 1.1.1. Small MS4s in Vermont urbanized areas (UA) as determined by the Bureau of the Census in the 2000 Census, and
- 1.1.2. 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
- 1.1.3. Small MS4s in such area as defined by the Secretary when designating a small MS4 to be covered under this permit pursuant to 40 CFR 123.35(b).

If your small MS4 is not located entirely within an urbanized area or within a stormwater-impaired watershed, only the portion that is within the urbanized area or stormwater-impaired watershed is regulated. A map, which shows the UAs and the stormwater-impaired watersheds in Vermont that are subject to this general permit, can be found at: [http://www.vtwaterquality.org/stormwater/sw\\_ms4\\_map.pdf](http://www.vtwaterquality.org/stormwater/sw_ms4_map.pdf)

A list of MS4s subject to this general permit can be found on page 10 of the flow chart found at: [http://www.vtwaterquality.org/Stormwater/sw\\_flowchart.pdf](http://www.vtwaterquality.org/Stormwater/sw_flowchart.pdf)

This permit provides coverage specifically for the designated MS4s in the Greater Burlington urban area municipalities of Burlington, Colchester, Essex, Essex Junction, Jericho, Milton, Shelburne, South Burlington, Underhill, Williston and Winooski.

## 1.2. Eligibility

- 1.2.1. This permit authorizes discharges of stormwater from MS4s, as defined in 40 CFR 122.26(b)(16). You are authorized to discharge under the terms and conditions of this general permit if you:
  - 1.2.1.1. Operate a small MS4 within the permit area described in Section 1.1,
  - 1.2.1.2. Are not a "large" or "medium" MS4 as defined in 40 CFR 122.26(b)(4) or (7), and
  - 1.2.1.3. Submit a Notice of Intent (NOI) in accordance with Part 2 of this permit, and
  - 1.2.1.4. Are located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or
  - 1.2.1.5. Are designated for permit authorization by the Secretary pursuant to 40 CFR 123.35.
  - 1.2.1.6. The following are types of authorized discharges:
    - 1.2.1.7. Stormwater discharges. This permit authorizes stormwater discharges to waters of the State and waters of the United States from the small MS4s identified in Section 1.2.1, except as excluded in Section 1.3.
    - 1.2.1.8. Non-stormwater discharges. You are authorized to commingle discharges from the following non-stormwater sources with discharges of stormwater from your MS4 provided that you have not determined these sources to be substantial contributors of pollutants to your MS4:

- Water line flushing
- Landscape irrigation
- Diverted stream flows
- Rising ground waters
- 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.)
- Uncontaminated pumped ground water
- Discharges from potable water sources
- Foundation drains
- Air conditioning condensate
- Irrigation water
- Springs
- Water from crawl space pumps
- Footing drains
- Lawn watering
- Individual residential car washing
- Flows from riparian habitats and wetlands
- Dechlorinated swimming pool discharges
- Street and bridge wash water
- Discharges from fire fighting activities

### 1.3. Limitations on Coverage

This permit does not authorize:

- 1.3.1. Discharges that are mixed with sources of non-stormwater unless such non-stormwater discharges are:
  - In compliance with a separate NPDES permit, or
  - Determined not to be a substantial contributor of pollutants to waters of the State and waters of the United States
- 1.3.2. Stormwater discharges associated with industrial activity as defined in 40 CFR 122.26(b)(14)(i)-(ix) and (xi).
- 1.3.3. Stormwater discharges associated with construction activity as defined in 40 CFR 122.26(b)(14)(x) or 40 CFR §122.26(b)(15).
- 1.3.4. Stormwater discharges covered under another permit, including permits for stormwater discharges associated with industrial and construction activity pursuant to 40 CFR 122.26 and permits for discharges associated with post-construction stormwater management pursuant to 10 V.S.A. § 1264.
- 1.3.5. Stormwater discharges associated with industrial activity that do not avoid unacceptable effects on State or Federally listed endangered and threatened species and designated critical habitat or which could jeopardize conservation programs established by the Secretary under 10 V.S.A Chapter 123. Any such discharge may require an individual permit. You may still be eligible for coverage under this general permit if any likely adverse effects can be addressed in the operation and maintenance program prepared pursuant to Section 4.2.6.1.
- 1.3.6. Discharges that fail to reduce the discharge of pollutants from your MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Your SWMP must include a description of the BMPs that you will be using 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 to fail to satisfy appropriate water quality requirements of the Clean Water Act.
- 1.3.7. Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been either established or approved by the EPA pursuant to section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)) unless your discharge is consistent

with that TMDL. This eligibility condition applies at the time you submit a Notice of Intent for coverage (NOI). If conditions change after your submission of a NOI, you may remain covered by the permit provided you comply with the applicable requirements of Part 3. You must incorporate any limitations, conditions and requirements applicable to your discharges, including monitoring frequency and reporting required, into your SWMP in order to be eligible for permit coverage. For discharges not eligible for coverage under this permit, you must apply for and receive an individual or other applicable general NPDES permit prior to discharging.

#### 1.4. Obtaining Authorization

- 1.4.1. To be authorized to discharge stormwater from small MS4s, you must first submit a notice of intent (NOI) and describe your SWMP in accordance with the deadlines presented in Section 2.1 of this permit. You are preliminarily authorized to discharge stormwater from your small MS4 under this permit upon submitting your NOI. After the Secretary has determined that your NOI filing is complete and reviewed the public comments on your NOI you will receive a written determination by the Secretary that either your MS4 discharge is eligible for continued coverage under the terms and conditions of this general permit or you must apply for an individual permit.

You must submit the information required in section 2.2 on the latest version of the NOI form (or photocopy thereof). NOI forms are available on the Agency web site or by calling the Agency at 241-3770. Your NOI must be signed and dated in accordance with section 6.7 of this permit. Your NOI must be accompanied by your payment of applicable stormwater permit fees. Stormwater permit fees are established by state statute and changed periodically. You will be notified of current fees when you request a NOI application form.

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), you may take advantage of those options to satisfy the NOI use and submittal requirements of Section 2.

- 1.4.2. After the Secretary has determined that your NOI is administratively complete, the Secretary will provide public notice of your NOI to the clerk of all municipalities in which your MS4 discharges. The secretary will also provide notice of your 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 your NOI to the Secretary.

- 1.4.3. 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 you coverage to discharge under this general permit you must, within 60 days of that determination, submit an application for an individual permit.
- 1.4.4. Where the operator changes, or where a new operator is added after submittal of an NOI under Part 2, a new NOI must be submitted in accordance with Part 2 prior to the change or addition.

#### 1.5. Waivers from Permit Coverage

- 1.5.1. 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:
  - 1.5.1.1. The Secretary may waive permit coverage if your MS4 serves a population of less than 1,000 within the urbanized area and you meet the following criteria:
    - 1.5.1.1.1. Your system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by this permit, and
    - 1.5.1.1.2. If you discharge any pollutant(s) that have been identified as a cause of impairment of any water body to which you discharge, 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.
  - 1.5.1.2. The Secretary may waive permit coverage if your MS4 serves a population under 10,000 and you meet the following criteria:
    - 1.5.1.2.1. All waters of the U.S., including small streams, tributaries, lakes, and ponds, that receive a discharge from your MS4 have been evaluated by you or by the Secretary.
    - 1.5.1.2.2. For all such waters, the Secretary determines that storm water 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.

1.5.1.2.3. For the purpose of paragraph 1.5.1.2.2 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), 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 your MS4.

1.5.1.2.4. The Secretary determines that future discharges from your 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.

1.5.1.3. 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.

1.6. Any person may petition the Agency for the designation of a small municipal separate storm sewer system. The Agency shall make a final determination on the petition within 180 days after its receipt.

## 2. Notice of Intent Requirements

### 2.1. Deadlines for Notification

2.1.1. If you are automatically designated as an operator of a regulated MS4 then you are required to submit an NOI and describe your SWMP or apply for an individual permit by March 24, 2003.

2.1.2. Additional designations after the date of permit issuance. If you are designated by Secretary as an operator of a regulated MS4 under 40 CFR § 122.32(a)(2) or § 122.32(c) after the date of permit issuance, then you are required to submit an NOI and describe your SWMP to the Secretary within 180 days of notice.

2.1.3. Submitting a Late NOI. You are not prohibited from submitting an NOI after the dates provided in 2.1. If a late NOI is submitted, your 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.

- 2.1.4. If you were designated as an operator of a regulated MS4 in an Urbanized Area as a result of an amendment of this permit after March 19, 2003 then you are required to submit an NOI and describe your SWMP to the Secretary within 180 days of the effective date of the amended permit.

## 2.2. Contents of the Notice of Intent

The Notice(s) of Intent must be signed in accordance with Part 6.7 of this permit and must include the following information:

### 2.2.1. Information on the Permittee:

- 2.2.1.1. The name of your municipal entity or state agency and mailing address and telephone number.
- 2.2.1.2. Name of person responsible for overall coordination of the SWMP, and mailing address and telephone number.
- 2.2.1.3. An estimate of the area in your MS4.

### 2.2.2. Information on the Municipal Separate Storm Sewer System:

- 2.2.2.1. Identify the names of all known waters that receive a discharge from the MS4. If known, indicate the number of outfalls to each water.
- 2.2.2.2. If you are relying on another entity regulated under the stormwater regulations (40 CFR 122.26 & 122.32) to satisfy one or more of your permit obligations (see Part 4.3), the identity of that entity (ies) and the element(s) they will be implementing.
- 2.2.2.3. Information on your chosen best management practices (BMPs) and the measurable goals for each of the stormwater minimum control measures in Part 4.2 of this permit, your timeframe for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your SWMP.

## 2.3. Where to Submit

- 2.3.1. You are to submit your NOI, signed in accordance with the signatory requirements of Section 6.7 of this permit, together with the correct fees at the following address:

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

#### 2.4. Co-Permittees Under a Single NOI

You may partner with other MS4s to develop and implement your SWMP. You may also jointly submit an NOI with one or more MS4s. Each MS4 must fill out an NOI form. The SWMP must clearly describe which permittees are responsible for implementing each of the control measures.

### 3. Special Conditions

#### 3.1. Discharges to Water Quality Impaired Waters

##### 3.1.1. Applicability: You must:

- 3.1.1.1. Determine whether any part of your MS4 discharges to a 303(d) listed (i.e., impaired) waterbody. If you have discharges meeting this criterion, you must comply with Part 3.1.2; if you do not, Part 3.1 does not apply to you.
- 3.1.1.2. If you have a discharge described in 3.1.1.1 you must also determine whether a TMDL has been developed and approved by EPA for the listed waterbody. If there is a TMDL, you must comply with both Parts 3.1.2 and 3.1.3; if no TMDL has been approved, you must comply with Part 3.1.2 but Part 3.1.3 does not apply until a TMDL has been approved.

##### 3.1.2. *Water Quality Controls for Discharges to Impaired Waterbodies.*

- 3.1.2.1. Your SWMP, including your operation and maintenance program for preventing or reducing pollutant runoff from municipal operations prepared pursuant to section 4.2.6, must include a section describing how your program will control to the maximum extent practicable the discharge of the pollutants of concern. This discussion must specifically identify measures and BMPs that will collectively control the discharge of the pollutants of concern. Pollutant(s) of concern refer to the pollutant identified as causing the impairment.
- 3.1.2.2. If the Secretary has issued a Watershed Improvement Permit (WIP) for the stormwater-impaired waterbody you must be in compliance with all requirements applicable to your MS4.

- 3.1.3. *Consistency with Total Maximum Daily Load (TMDL) Requirements.* As set forth in 1.3.7 in implementing the six minimum control measures set forth in 4.2 you must be consistent with recommendations applicable to your MS4 in the implementation section of the Lake Champlain TMDL and any future TMDLs for impaired waters affected by your 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).
- 3.1.4. *Determination of Consistency.* The assessment of whether your Stormwater Management Program is consistent with TMDL recommendations will be based on your implementation and maintenance of best management practices not on estimates or measurements of pollutant loading.

#### 4. Stormwater Management Program

##### 4.1. Requirements

- 4.1.1. You must develop, implement, and enforce a Stormwater Management Program (SWMP) designed to reduce the discharge of pollutants from your small 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. Implementation of best management practices consistent with the provisions of the SWMP required pursuant to this permit constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable". It should be noted that EPA will evaluate its MS4 regulations governing this permit after December 10, 2012 and make necessary revisions.
- 4.1.2. You must develop and fully implement your program by the expiration date of this permit. Your SWMP must include the following information for each of the six minimum control measures described in Section 4.2 of this permit:

- 4.1.2.1. The person or persons responsible for implementing or coordinating the BMPs for your SWMP.
- 4.1.2.2. The best management practices (BMPs) that you or another entity will implement for each of the stormwater minimum control measures. EPA has provided a list of sample BMPs on its web site: <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/menu.cfm>
- 4.1.2.3. The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action. When possible, your 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: [www.epa.gov/npdes/stormwater/measurablegoals/index.htm](http://www.epa.gov/npdes/stormwater/measurablegoals/index.htm); and
- 4.1.3. In addition to the requirements listed above, you must provide a rationale for how and why you selected each of the BMPs and measurable goals for your SWMP. The rationale should describe: 1) the stormwater problems to be addressed by the BMP, 2) the major alternative BMPs to the ones you selected and why they were not adopted, 3) the behavioral and institutional changes necessary to implement your BMP, and 4) expected water quality outcomes.
- 4.1.4. If applicable, describe the process for consultation with and involvement of public water suppliers with source water protection zones within your MS4.

## 4.2. Minimum Control Measures

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

- 4.2.1. Public Education and Outreach on Stormwater Impacts
  - 4.2.1.1. Permit requirement. You 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 and the steps that the public can take to reduce pollutants in stormwater runoff. As a minimum, you must develop and maintain on your own or in cooperation with other MS4s a web site with locally relevant stormwater management information and promote its existence and use, and:
    - 1) participate in the regional stormwater education and outreach strategy described in the January 31, 2003 memorandum of

agreement between designated MS4s, the Chittenden County Regional Planning Commission and the Vermont Agency of Natural Resources, or 2) 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/menu.cfm>; Measurable Goals Guidance for Phase II Small MS4s, <http://cfpub.epa.gov/npdes/stormwater/measurablegoals/index.cfm> or 3) undertake the following activities:

- Develop or acquire informational brochures relevant to local stormwater concerns.
- 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.
- Seek the cooperation of the local news media to run two or more stormwater-related news or feature stories per year.
- 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.
- For nontraditional MS4s: Develop and implement public education campaigns (in addition to the brochure distributions) reasonably designed to educate frequent facility users.

4.2.1.2. Decision process. If you elect to formulate your own public education and outreach program rather than participating in the regional initiative or the schedule of BMPs set forth in 4.2.1.1 you must document your decision process for the development of a stormwater public education and outreach program. Your rationale statement must address your overall public education program and the individual BMPs, measurable goals and responsible persons for your program. The rationale statement must include the following information, at a minimum:

4.2.1.2.1. How you plan to inform individuals and households about the steps they can take to reduce stormwater pollution.

- 4.2.1.2.2. How you plan to inform individuals and groups on how to become involved in the stormwater program (with activities such as local stream and beach restoration activities).
- 4.2.1.2.3. Who are the target audiences for your education program who are likely to have significant stormwater impacts (including residential, commercial, industrial and institutional entities) and why those target audiences were selected. Note, training for your employees is covered in section 4.2.6.
- 4.2.1.2.4. What are the target pollutants and pollutant sources your public education program is designed to address.
- 4.2.1.2.5. What are the behavioral changes that you seek to achieve in order to reduce and eliminate stormwater pollution.
- 4.2.1.2.6. What is your outreach strategy, including the mechanisms (e. g., printed brochures, newspapers, media, workshops, etc.) you will use to reach your target audiences, and how many people do you expect to reach and what degree of behavioral change do you expect to achieve by your outreach strategy over the permit term.
- 4.2.1.2.7. Who is responsible for overall management and implementation of your stormwater public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.1.2.8. How you selected the measurable goals for each of the BMPs and how will you evaluate the success of this minimum measure in achieving goals for behavioral change and water quality.

#### 4.2.2. Public Involvement/ Participation

- 4.2.2.1. Permit requirement. You 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:
  - Form a citizen stormwater advisory panel.
  - Establish a water quality monitoring program involving citizen volunteers.
  - Institute an on-going public workshop series on stormwater awareness.
  - Institute a continuing storm drain stenciling project.

- Sponsor periodic community stream corridor clean-up days.
- Establish and support a citizen “stormwater watch” group.
- Create an “adopt-a-stream” program.
- Undertake a program similar to the above with the permission of the Secretary.
- As a substitute for one or more of these activities, you may contribute \$5,000 per activity 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, January 31, 2003.

4.2.2.2. Decision process. If you elect to implement a public involvement/participation program rather than contribute to the regional stormwater education and outreach strategy described in the January 2003 memorandum of agreement between designated MS4s, the Chittenden County Regional Planning Commission and the Vermont Agency of Natural Resources you must document your decision process for the development of a stormwater public involvement/participation program. Your rationale statement must address your overall public involvement/participation program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:

- 4.2.2.2.1. What is your plan to actively involve the public in the further development and implementation of your program.
- 4.2.2.2.2. Who are the target audiences for your public involvement program, including a description of the types of ethnic and economic groups engaged. You are encouraged to actively involve all potentially affected stakeholder groups, including commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and educational organizations, among others.
- 4.2.2.2.3. What are the types of public involvement activities included in your program.
- 4.2.2.2.4. Who is responsible for the overall management and implementation of your stormwater public involvement/participation program and, if different, who is responsible for each of the BMPs identified for this program.

- 4.2.2.2.5. How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

#### 4.2.3. Illicit Discharge Detection and Elimination

##### 4.2.3.1. Permit requirement. You must:

- 4.2.3.1.1. Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in 40 CFR § 122.26(b)(2)) into your small MS4;
- 4.2.3.1.2. Develop, if not already completed, a storm sewer geographic information systems or AutoCAD map of your 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. You are encouraged to include a map or the location of all separate private stormwater systems within your MS4's boundaries;
- 4.2.3.1.3. To the extent allowable under State or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into your 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 enforcing it;
- 4.2.3.1.4. Develop and implement a plan to detect and address non-stormwater discharges, including illegal dumping, to your system. In developing your plan you should collect or utilize existing local or Agency data and establish monitoring priorities for storm drain outfalls based on their potential to contribute to pollution. You must then investigate outfalls in the order of your established priorities. You may conduct such investigation yourself, contract for investigation, coordinate with storm drain investigation activities of others, or any combination of these approaches.
- 4.2.3.1.5. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- 4.2.3.1.6. Address the following categories of non-stormwater discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your 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, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street and bridge wash water and discharges from fire fighting activities.

4.2.3.1.7. By February 1, 2008 provide the Secretary with a summary of monitoring activities conducted and corrective actions taken.

4.2.3.2. Decision process. You must document your decision process for the development of a stormwater illicit discharge detection and elimination program. Your rationale statement must address both your overall illicit discharge detection and elimination program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:

4.2.3.2.1. How you will develop a storm sewer map showing the location of all outfalls and the names and location of all receiving waters. Describe the sources of information you used for the maps, and how you plan to verify the outfall locations with field surveys. If already completed, describe how you developed this map. Also, describe how your map will be regularly updated.

4.2.3.2.2. The mechanism (ordinance or other regulatory mechanism) you will use to effectively prohibit illicit discharges into the MS4 and why you chose that mechanism. If you need to develop this mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.

4.2.3.2.3. Your plan to ensure through appropriate enforcement procedures and actions that your illicit discharge ordinance (or other regulatory mechanism) is implemented.

4.2.3.2.4. Your plan to detect and address illicit discharges to your system, including discharges from illegal dumping and spills. Your plan must include dry weather field screening for non-stormwater flows and field tests of selected chemical

parameters as indicators of discharge sources. Your plan must also address on-site sewage disposal systems that flow into your storm drainage system. Your plan must address the following, at a minimum:

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

4.2.3.2.4.2. Procedures for tracing the source of an illicit discharge, including the specific techniques you will use to detect the location of the source.

4.2.3.2.4.3. Procedures for removing the source of the illicit discharge

4.2.3.2.4.4. Procedures for program evaluation and assessment

4.2.3.2.5. How you plan 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 with your public education minimum measure and your pollution prevention/good housekeeping minimum measure programs.

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

4.2.3.2.7. How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

#### 4.2.4. Construction Site Stormwater Runoff Control

4.2.4.1. Permit requirement. Pursuant to EPA rules at 40 C.F.R. 122.34(b)(4) you must develop and to the extent allowable under state or local law enforce a program to reduce pollutants in any stormwater runoff to your 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 your 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 3-9001 (2002) (NPDES Number: VTR100001) for stormwater runoff from large construction sites that regulates construction activities, which result in a land disturbance equal to or greater than five acres of land. (An amended version of this permit is expected to be issued in 2003). The Secretary also expects to issue General Permit 3-9013 (2003) (NPDES Number: VTR100002) for stormwater runoff from small construction sites which regulates construction activities which result in a land disturbance equal or greater than one and less than five acres of land. 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 your own program to regulate stormwater runoff from construction activities that meet the requirements of 40 C.F.R 122.34(b)(4) you 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. Your program for assisting the Agency must include the development and implementation of, at a minimum:

- 4.2.4.1.1. Procedures to identify construction activities meeting the one-acre and five-acre regulatory thresholds and to report such activities to the Secretary.
- 4.2.4.1.2. Procedures to assist the Secretary in inspecting permitted construction sites for compliance with the conditions of their permits. In conducting such inspections your staff will not be expected to be familiar with the erosion control plans. However, you should inspect for obvious signs of noncompliance such as eroding soils and turbid waters. You will only be expected to report suspected violations to the Agency and not to initiate an independent enforcement action.

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

- 4.2.4.1.3. Procedures to assure that construction activities undertaken by you are properly permitted and implemented in accordance with the terms of the permit.
- 4.2.4.1.4. In conjunction with the review required by section 4.2.5.1.2, 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. You may adopt requirements that complement or are more stringent than the requirements of the Secretary.
- 4.2.4.1.5. You must adopt an erosion control ordinance, or zoning or subdivision regulation, or other regulatory mechanism, or if a nontraditional MS4 adopt a policy which, at a minimum, regulates development activities not subject to state or federal erosion control requirements.
- 4.2.4.2. Decision process. You must document your decision process for the development of a construction site stormwater control program. Your rationale statement must address your overall construction site stormwater control program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
  - 4.2.4.2.1. The mechanism (ordinance or other regulatory mechanism) you will use to require erosion and sediment controls at construction sites and why you chose that mechanism. If you need to develop this mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your SWMP.
  - 4.2.4.2.2. Your procedures for site inspection and enforcement of control measures, including how you will prioritize sites for inspection and how you will assist the Agency in identifying and inspecting projects subject to the Agency's construction general permits.

- 4.2.4.2.3. Who is responsible for overall management and implementation of your construction site stormwater control program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.4.2.4. Describe how you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

#### 4.2.5. Post-Construction Stormwater Management in New Development and Redevelopment

##### 4.2.5.1. Permit requirement.

- 4.2.5.1.1. Pursuant to 40 C.F.R 122.34(b)(5) you must develop, 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 your small MS4. Your 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 old impervious surface of greater than one or two acres depending on the size of the watershed and nature of the resources affected. 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 you must develop, implement, and enforce a program to reduce pollutants in any post-construction stormwater runoff to your 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. You 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.

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

- 4.2.5.1.2. In conjunction with the review required by section 4.2.5.1.4, you must review existing policies; planning, zoning and subdivision regulations; and ordinances to determine their effectiveness in managing stormwater runoff that discharges into your 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. You may adopt requirements that complement or are more stringent than the requirements of the Secretary. In addition, as required by section 3.1.3 you must review you ordinances for consistency with the recommendations of the Lake Champlain TMDL and any future TMDLs for impaired waters affected by your MS4 adopted by the Secretary and approved by EPA pursuant to section 303(d) of the federal Clean Water Act.
- 4.2.5.1.3. You must develop 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. You must also develop and implement procedures to report to the Secretary such activities that have one or more acres of impervious surface.
- 4.2.5.1.4. For stormwater runoff that discharges into your 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 you must adopt an ordinance, planning, zoning and subdivision regulation, or other regulatory mechanism, or if you are a nontraditional MS4, a policy that:
  - 4.2.5.1.4.1. Prevents or minimizes water quality impacts from post-construction stormwater runoff from such developments; and
  - 4.2.5.1.4.2. Utilizes a combination of structural and/or non-structural best management practices (BMPs) which are appropriate for your community and consistent with the Agency's 2002

Vermont State Stormwater Management Manual (and any amendments thereto); and

4.2.5.1.4.3. Ensures adequate long-term operation and maintenance of BMPs.

4.2.5.1.5. For stormwater runoff that discharges into your 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 you must:

4.2.5.1.5.1. Develop 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 your staff will not be expected to be familiar with the post-construction site plans submitted to the Secretary by the permittee. However, you 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. You 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.

4.2.5.1.5.2. Develop and implement procedures to assure that development and redevelopment activities undertaken by you, including road projects, are properly permitted and constructed and maintained in accordance with the terms of the permit.

4.2.5.2. Decision process. You must document your decision process for the development of a program for management of post-construction storm water runoff. Your rationale statement must address both your overall strategy for post-construction storm water management and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:

4.2.5.2.1. What are the mechanisms (ordinance or other regulatory mechanisms) you 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 you chose those mechanisms. If you need to develop a mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.

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

4.2.5.2.3. Your procedures for site inspection and enforcement, your 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 you will prioritize sites for inspection. Also describe your procedures for assisting the Agency in identifying and inspecting projects subject to the Agency's post-construction stormwater permit program.

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

4.2.5.2.5. How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

#### 4.2.6. Pollution Prevention/ Good Housekeeping for Municipal Operations

##### 4.2.6.1. Permit requirement.

4.2.6.1.1. You must describe your operation and maintenance program for preventing or reducing pollutant runoff from municipal operations, including, at a minimum: new construction and land disturbance and maintenance of fleet and buildings, 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.

- 4.2.6.1.2. Compliance with this measure may be achieved by participation in the Agency's Municipal Compliance Assistance Program or another facility audit program approved by the Secretary.
- 4.2.6.1.3. You must provide a list of industrial facilities you own or operate that affect your 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 (expected to be adopted in 2003) (NPDES Number: VTR050001) (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 you own or operate which is in compliance with the requirements of an individual NPDES permit or the MSGP satisfies the requirements of section 4.2.6 for that facility.
- 4.2.6.2. Decision process. You must document your decision process for the development of a pollution prevention/good housekeeping program for municipal operations. Your rationale statement must address your overall pollution prevention/good housekeeping program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
  - 4.2.6.2.1. Your operation and maintenance program to prevent or reduce pollutant runoff from your municipal operations. Your program must specifically list the municipal operations that are impacted by this operation and maintenance program.
  - 4.2.6.2.2. Your program should address the following areas:
    - 4.2.6.2.2.1. Maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatables and other pollutants to your MS4.
    - 4.2.6.2.2.2. 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 you operate.

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

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

4.2.6.2.4. How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

### 4.3. Sharing Responsibility

Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully take over the measure. You may rely on another entity only if:

- 4.3.1. The other entity, in fact, implements the control measure;
- 4.3.2. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.
- 4.3.3. The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of your SWMP. If the other entity agrees to report on the minimum measure, you must supply the other entity with the reporting requirements contained in Section 5.3 of this permit. If the other entity fails to implement the control measure on your behalf, then you remain liable for any discharges due to that failure to implement.

### 4.4. Reviewing and Updating Storm Water Management Programs

- 4.4.1. SWMP Review: You must do an annual review of your SWMP in conjunction with preparation of the annual report required under Part 5.3.
- 4.4.2. SWMP Update: You may change your SWMP during the life of the permit in accordance with the following procedures:
  - 4.4.2.1. 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.

- 4.4.2.2. 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 request is denied, the Secretary will send you a written response giving a reason for the decision. Your modification requests must include the following:
  - 4.4.2.2.1. An analysis of why the BMP is ineffective or infeasible (including cost prohibitive),
  - 4.4.2.2.2. Expectations on the effectiveness of the replacement BMP, and
  - 4.4.2.2.3. An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
- 4.4.2.3. Change requests or notifications must be made in writing and signed in accordance with Part 6.7.
- 4.4.3. SWMP Updates Required by the Secretary: The Secretary may require changes to the SWMP as needed to:
  - 4.4.3.1. Address impacts on receiving water quality caused, or contributed to, by discharges from the Municipal Separate Storm Sewer System;
  - 4.4.3.2. Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or
  - 4.4.3.3. Include such other conditions deemed necessary by the Secretary to comply with the goals and requirements of the Clean Water Act.
  - 4.4.3.4. Changes requested by the Secretary must be made in writing, set forth the time schedule for you to develop the changes, and offer you the opportunity to propose alternative program changes to meet 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.
- 4.4.4. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation: You must implement the SWMP on all new areas added to your portion of the municipal separate storm sewer system (or for which you become 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.

- 4.4.4.1. Within 90 days of a transfer of ownership, operational authority, or responsibility for SWMP implementation, you must have a plan for implementing your 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.
- 4.4.4.2. 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.

## 5. Monitoring, Record Keeping, and Reporting

### 5.1. Monitoring

- 5.1.1. You must evaluate program compliance, the appropriateness of identified best management practices, and progress toward achieving identified measurable goals.
- 5.1.2. When you conduct monitoring of illicit discharges pursuant to section 4.2.3.1.4 samples and measurements taken shall be representative of the monitored activity.
- 5.1.3. Records of monitoring information shall include:
  - 5.1.3.1. The date, exact place, and time of sampling or measurements;
  - 5.1.3.2. The names(s) of the individual(s) who performed the sampling or measurements;
  - 5.1.3.3. The date(s) analyses were performed;
  - 5.1.3.4. The names of the individuals who performed the analyses;
  - 5.1.3.5. The analytical techniques or methods used; and

5.1.3.6. The results of such analyses.

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

## 5.2. Record keeping

5.2.1. You 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 Agency at any time.

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

## 5.3. Reporting

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

5.3.1. The status of your compliance with permit conditions, an assessment of the appropriateness of the identified best management practices, progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;

5.3.2. Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

5.3.3. A summary of the stormwater activities you plan to undertake during the next reporting cycle (including an implementation schedule);

5.3.4. Proposed changes to your SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements; and

- 5.3.5. Notice that you are relying on another government entity to satisfy some of your permit obligations (if applicable).

## 6. Standard Permit Conditions

### 6.1. Duty to Comply

- 6.1.1. You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of 10 V.S.A. Chapter 47 and rules there under 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.

- 6.1.2. Penalties for Violations of Permit Conditions

- 6.1.2.1. 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.

- 6.1.3. 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.

- 6.1.4. 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.

## 6.2. 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. § 824(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:

- 6.2.1. Reissuance or replacement of this permit, at which time you must comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
- 6.2.2. Issuance of an individual permit for your discharges; or
- 6.2.3. A formal permit decision by the Agency not to reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

## 6.3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for you 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.

## 6.4. Duty to Mitigate

You 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.

## 6.5. Duty to Provide Information

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

## 6.6. Other Information

If you become aware that you have failed to submit any relevant facts in your Notice of Intent or submitted incorrect information in the Notice of Intent or in any other report to the Agency, you must promptly submit such facts or information.

## 6.7. Signatory Requirements

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

Certification. Any person signing documents under section 6.7 shall make the following certification:

"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."

#### 6.8. 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

#### 6.9. Proper Operation and Maintenance

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit and with the conditions of your 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 by you only when the operation is necessary to achieve compliance with the conditions of the permit.

#### 6.10. Inspection and Entry

You must allow the Agency or an authorized representative (including an authorized contractor acting as a representative of) upon the presentation of credentials and other documents as may be required by law, to do any of the following:

- 6.10.1. Enter your premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this

permit;

- 6.10.2. Have access to and copy at reasonable times, any records that must be kept under the conditions of this permit;
- 6.10.3. Inspect at reasonable times any facilities or equipment (including monitoring and control equipment) practices, or operations regulated or required under this permit; and
- 6.10.4. 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.

#### 6.11. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. Your 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.

#### 6.12. Permit Transfers

You may transfer the authorization to discharge by submitting a notice of transfer to the Secretary. The Secretary may require modification or revocation and reissuance of your 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 thirty (30) days prior to the proposed date of transfer and shall include the following:

- 6.12.1. Your name and address;
- 6.12.2. The name and address of the prospective permittee;
- 6.12.3. The name and daytime telephone number of the individual currently responsible for overseeing the administration of this permit;
- 6.12.4. The proposed date of transfer; and
- 6.12.5. A statement signed by the prospective permittee, stating that:
  - 6.12.5.1. The conditions of your operations that contribute to, or affect, the discharge will not be materially different;
  - 6.12.5.2. 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 permit, and;

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

6.13. Anticipated Noncompliance

You must 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.

6.14. State Environmental Laws

- 6.14.1. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve you from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of the Act.
- 6.14.2. No condition of this permit releases you from any responsibility or requirements under other environmental statutes or regulations.

6.15. 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.

6.16. 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.

6.17. Requiring an Individual Permit or an Alternative General Permit

- 6.17.1. Request by the Agency. The Agency 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 General Permit Rules, Section 13.12 D. Any interested person may petition the Agency to take action under this paragraph. Where the Agency requires you to apply for an individual NPDES permit, the Agency will notify you 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 you to file 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 applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications must be submitted to the Agency. The Agency may grant additional time to submit the application upon request of the applicant. If you fail to submit in a timely manner an individual NPDES permit application as required by the Agency under this paragraph, then the applicability of this permit to you is automatically terminated at the end of the day specified by the Agency for application submittal.

- 6.17.2. 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, you must submit an individual application in accordance with the requirements of 40 CFR 122.33(b) (2), with reasons supporting the request, to the Agency at the address set out in 2.3.1. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by you are adequate to support the request.
- 6.17.3. General permit termination. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or you are 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 Agency.

6.18. 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 statutes, 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.

## 7. Definitions

All definition 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 the Statute or Regulation takes precedence.

Agency means the Vermont Agency of Natural Resources.

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.

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.

EPA means the United States Environmental Protection Agency.

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

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.

Nontraditional 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 VTrans.

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).

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 (e.g. "the Houston MS4"). 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 (e.g., the Houston MS4 includes MS4s operated by the city of Houston, the Texas Department of Transportation, the Harris County Flood Control District, Harris County, and others).

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.

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. .

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

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.

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

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

SWMP is an acronym for Storm Water Management Program.

VTrans means the Vermont Agency of Transportation.

Waters of the State as defined in 10 V.S.A. §1251 include all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs and all bodies of surface waters, artificial or natural, which are contained within, flow through or border upon the state or any portion of it;

Waters of the United States means:

- (a) All waters, which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters, which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate "wetlands;"
- (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
- (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements

of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water, which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

*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.

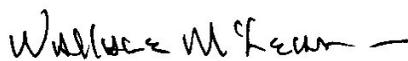
You and Your as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party's responsibilities (i.e., the city, town, village, or nontraditional MS4).

This general permit was initially adopted March 19, 2003. This permit as amended today, February 19, 2004, shall remain in effect until March 18, 2008.

The amendments to 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 their adoption today, February 19, 2004, pursuant to 10 V.S.A. §1269.

Dated at Waterbury, Vermont this 19th day of February 2004.

Jeffrey Wennberg, Commissioner  
Department of Environmental Conservation



By \_\_\_\_\_  
Wallace McLean, Director  
Water Quality Division