

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

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
DRAFT GENERAL PERMIT 3-9030  
FOR DESIGNATED DISCHARGES TO THE BARTLETT, CENTENNIAL,  
ENGLESBY, MOREHOUSE AND POTASH BROOK WATERSHEDS**

**I. GENERAL PERMIT COVERAGE**

**A. Background**

Under Clean Water Act (“CWA”) section 402(p), 33 U.S.C. § 1342(p), the United States Environmental Protection Agency (“EPA”) established permitting requirements for certain stormwater discharges. EPA established such requirements in two phases: Phase I, 55 Fed. Reg. 47990 (Nov. 16, 1990); and Phase II, 64 Fed. Reg. 68,722 (Dec. 8, 1999). Section 402(p)(2)(E) and (6) and 40 C.F.R. § 122.26 (a)(9)(i)(C) and (D), provide that the EPA Regional Administrator or, in states where there is an approved state program, the State Director may designate additional stormwater discharges as requiring National Pollutant Discharge Elimination System (NPDES) permits where he or she determines that: (C) stormwater controls are needed for the discharge on wasteload allocations that are part of “total maximum daily loads” (TMDLs) that address the pollutants of concern, or (D) the discharge, or category of discharges within a geographic area, contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States. This authority is commonly referred to as Residual Designation Authority (RDA).

The Vermont Department of Environmental Conservation (Department) recently exercised residual designation authority pursuant to 40 C.F.R. Section 122.26(a)(9)(i)(D) for certain designated discharges to Bartlett, Centennial, Englesby, Morehouse and Potash Brooks. This general permit is applicable to these designated discharges and to any additional stormwater discharges to these five waterbodies that the Department designates pursuant to its residual designation authority.

**B. Authority**

This permit is issued in accordance with Vermont’s federally-delegated NPDES stormwater program pursuant to the following state and federal laws and rules: the Vermont Water Pollution Control statute, 10 V.S.A. Chapter 47; 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.; and related regulations of the federal Environmental Protection Agency including 40 C.F.R. 122.

This general permit does not prevent a municipality from adopting stricter standards than those contained in this general permit, or in state or federal law. A municipality may voluntarily assume responsibility for permit coverage for a designated discharge if agreed to by the Department.

This permit is consistent with the EPA- approved Total Maximum Daily Load (TMDL) for Bartlett, Centennial, Englesby, Morehouse and Potash Brooks.

### **C. Coverage Required under this Permit**

Owners or operators of property from which there is a designated discharge shall obtain coverage under this general permit. A designated discharge is a stormwater discharge from an impervious surface to Bartlett, Centennial, Englesby, Morehouse or Potash Brook if such stormwater discharge is not covered under a NPDES municipal separate storm sewer system (MS4) permit or another NPDES permit or is not authorized by a state stormwater discharge permit with an associated offset or on-site controls that result in no net contribution to the receiving water. Non-municipal stormwater discharges into a MS4 system or stormwater discharges that commingle with the MS4 system are not subject to this designation.

### **D. Limitations on Coverage**

This permit does not authorize stormwater discharge-related activities (e.g. BMP installation) when the discharge-related activity is likely to jeopardize the continued existence of any State or federally threatened or endangered species or result in the destruction or adverse modification of any critical habitat.

### **E. Effect of Compliance with this Permit**

Designated discharges that obtain authorization under this general permit and adhere to the terms and conditions of this permit are authorized to discharge to waters of the state. If a designated discharge obtains coverage and is in compliance with the terms and conditions of this general permit, the discharge will not be contributing to a water quality standards violation pursuant to 40 C.F.R. § 122.26 (a)(9)(i)(D).

### **F. How to Obtain Coverage**

To obtain coverage under this general permit, an owner or operator of a property with a designated discharge must comply with the application requirements and timeframes specified in Part III of this permit.

### **G. When to Obtain Coverage**

Designated discharges that receive notice of designation from the Secretary prior to the effective date of this permit, shall comply with the application requirements set forth in Part III of this general permit no later than December 16, 2009. The owner or operator of

any stormwater discharge that is residually designated by the Secretary after the effective date of this permit shall obtain coverage under this permit no later than 180 days after receipt of notice of such designation.

## **H. Relationship to Vermont’s State Stormwater Law**

In accordance with Section 22-306 of the Department’s Stormwater-Management Rule for Stormwater-Impaired Waters (Chapter 22, Environmental Protection Rules), a designated discharge that receives authorization under this general permit is no longer required to renew its previously issued state stormwater operational permit pursuant to Chapter 22 of the Environmental Protection Rules (EPR) and 10 V.S.A. Sections 1264 and 1264a. However, if the authorized designated discharge is expanded or increased, then coverage under EPR Chapter 22 and 10 V.S.A. Sections 1264 and 1264a may be required for the expanded or increased discharge as further described in Subsection V.E. of this general permit.

## **II. DEFINITIONS**

“Best management practice” or “BMP” means a structural or non-structural technique for managing stormwater to prevent or reduce pollutant delivery and/or control stormwater runoff to surface water or ground water. A structural stormwater BMP may include, but is not limited to, a basin, discharge outlet, swale, rain garden, filter or other stormwater management treatment practice or measure either alone or in combination. Non-structural stormwater BMPs may include, but are not limited to, source control and pollution prevention practices.

“Designated discharge” means a stormwater discharge from an impervious surface to Bartlett, Centennial, Englesby, Morehouse or Potash Brook if such discharge is not covered under the NPDES municipal separate storm sewer system (MS4) permit or another NPDES permit or is not authorized by a state stormwater discharge permit with an associated offset or on-site controls that result in no net contribution to the receiving water. Non-municipal stormwater discharges into a MS4 system or stormwater discharges that commingle with the MS4 system are not subject to this designation.

“Designer” means any person whose qualifications are acceptable to the Secretary. The Secretary may require that plans required by this permit be prepared by a professional engineer practicing within the scope of their engineering specialty and licensed in the State of Vermont, if necessary to protect the public or the environment.

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

“Municipal separate storm sewer system” or “MS4” is defined at 40 C.F.R. 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 C.F.R. 122.2.

“Owner or operator” means the owner or operator of a “facility” or “activity” subject to regulation under the NPDES program. In the case of a publicly owned facility or activity, the owner must be included as a permittee or co-permittee in any application for coverage under this permit.

“Person” means any individual, partnership, company, corporation, association, joint venture, trust, municipality, the state of Vermont, or any agency, department or subdivision of the state, any federal agency, or any other legal or commercial entity.

“Previously Issued State Stormwater Discharge Permit” means a stormwater discharge permit or a temporary pollution permit issued by the Secretary (regardless of whether such permit has expired) prior to the effective date of this general permit.

“Project Area” means the area(s) of disturbance associated with implementation of stormwater BMPs required by this general permit.

“Secretary” means the Secretary of the Vermont Agency of Natural Resources or the Secretary’s duly authorized representative.

“Stormwater” or stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

“Total Maximum Daily Load” or “TMDL” means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. Section 1313(d) and federal regulations adopted under that law.

### III. APPLICATION REQUIREMENTS

#### A. Filing of Application

1. Designated Discharges from Property with Existing Impervious Surfaces that are Subject to a Previously Issued State Stormwater Permit

**By no later than December 16, 2009**, the owner or operator of a designated discharge that receives notice of designation from the Secretary prior to the effective date of this permit, shall apply for coverage under this general permit by submitting a completed NOI and all necessary attachments to the Secretary. The owner or operator of a stormwater discharge that is residually designated by the Secretary after the effective date of this permit shall submit a NOI and all necessary attachments no later than 180 days after receipt of notice of such designation. When a property is owned by one person but is operated by another person, it is the operator's duty to obtain permit coverage.

2. Designated Discharges from Property with Existing Impervious Surfaces Greater than One Acre that do not have a Previously Issued State Stormwater Permit

**By no later than December 16, 2009**, the owner or operator of a designated discharge that receives notice of designation from the Secretary prior to the effective date of this permit, shall apply for coverage under this general permit by submitting a completed NOI and all necessary attachments to the Secretary. The owner or operator of a stormwater discharge that is residually designated by the Secretary after the effective date of this permit shall submit a NOI and all necessary attachments no later than 180 days after receipt of notice of such designation. When a property is owned by one person but is operated by another person, it is the operator's duty to obtain permit coverage.

3. Designated Discharges from Property with Existing Impervious Surfaces Less than One Acre that do not have a Previously Issued State Stormwater Permit

- a. A designated discharge from property that has impervious surfaces less than one acre that are not subject to a previously issued state stormwater discharge permit shall be authorized to discharge upon the effective date of this permit. A NOI is not required for such a designated discharge. **By no later than June 30, 2010**, the permittee shall implement the BMPs set forth in Appendix C of this general permit. Authorization to discharge shall terminate any time after June 30, 2010 if the BMPs set forth in Appendix C are not implemented for a designated discharge.
- b. The owner or operator of a stormwater discharge subject to this Subpart III.A.3. that is residually designated by the Secretary after the effective date of this permit shall be authorized to discharge upon receipt of a copy of this general permit from the Secretary. A NOI is not required for such a designated discharge. Such authorization to discharge shall terminate 180 days after the permittee receives a copy of this general permit from the Secretary if the BMPs set forth in Appendix C are not being implemented for a designated discharge.

## **B. Contents of Application**

An application for coverage under this general permit shall consist of a completed Notice of Intent (NOI) form with all necessary attachments. NOI forms are available on-line at [www.vt.waterquality.org/storwmater.htm](http://www.vt.waterquality.org/storwmater.htm). The application must be submitted to the address specified in the NOI.

## **C. Determination of Complete Application and Request for Additional Information**

The Secretary reserves the right to return an application that is incomplete or inaccurate or does not meet the requirements of this permit. The Secretary may require an applicant to submit additional information that the Secretary considers necessary in order to make a decision on the eligibility for, or the issuance or denial of, an authorization to discharge pursuant to this permit. The Secretary may deny an authorization to discharge pursuant to this permit if the additional information requested is not provided to the Secretary within sixty (60) days of the Secretary's request or if any additional information submitted is inadequate for the Secretary to make a decision on the eligibility for, or the issuance or denial of, an authorization to discharge pursuant to this permit.

## **D. Public Notice of Application**

Any person who files a NOI shall at the same time provide a copy of the completed NOI form to the municipal clerk for posting for 10 days in the municipality in which the designated discharge is located. If the Secretary issues an authorization to discharge under this permit and the Secretary later determines that the applicant failed to provide notice to the municipal clerk in accordance with this subpart, the Secretary may revoke coverage under this permit in accordance with subpart VI.H. and/or may take any appropriate enforcement action in accordance with Part IX of this general permit.

## **E. Public Comment Period**

Upon determination that an application is complete, the Secretary shall post a copy of the NOI on DEC's stormwater website and on the Agency's Environmental Notice Bulletin. The Secretary shall provide an opportunity for written comments regarding whether the NOI and all necessary attachments comply with the terms and conditions of this permit. Any interested person may file comments with the Secretary during the 10-day period following electronic posting. Should the Secretary extend or reopen the public comment period, the Secretary will so notify the applicant and those persons who file comments or a letter of interest. The Secretary may extend the public comment period if additional information is requested pursuant to Subpart III.C. of this permit.

## **F. Authorization to Discharge**

A person who files a NOI and all necessary attachments in accordance with Subparts III.A.1 and 2 shall only be authorized to discharge under the terms and conditions of this permit upon receipt of a written authorization to discharge from the Secretary. Each completed NOI and attachments are incorporated by reference and included in the terms and conditions of this permit. The owner and operator of a designated discharge specified in Subpart III.A.3 is authorized to discharge under the terms and conditions of this permit upon the effective date of this permit. A permittee shall comply with all terms and conditions of this general permit and all authorizations issued hereunder. Any permit noncompliance shall constitute a violation of 10 V.S.A. Chapter 47 and/or the federal Clean Water Act, and related regulations and may be cause for an enforcement action and/or revocation, modification or suspension of the permittee's authorization to discharge under this general permit.

## **G. Filing of Authorization to Discharge in Local land Records**

The permittee shall file a one-page notice of the issuance of authorization to discharge under this general permit in the local land records within fourteen (14) days of the issuance of the authorization. A one page notice form is available on-line at [www.vtwaterquality.org](http://www.vtwaterquality.org). A copy of the recording shall be submitted to the Secretary within fourteen (14) days of the permittee's receipt of a copy of the recording from the local land records.

## **IV. PERMIT SUBMITTAL REQUIREMENTS AND COLLECTION, TREATMENT AND CONTROL STANDARDS**

### **A. Designated Discharges from Property with Existing Impervious Surfaces that are Subject to a Previously Issued State Stormwater Permit**

An applicant for permit coverage for a designated discharge from property that is subject to a previously issued state stormwater discharge permit shall:

1. **By June 31, 2011**, conduct and submit to the Department an analysis conducted in accordance with the requirements contained in Appendix A to this general permit. The applicant shall also submit design plans for implementing the BMPs identified in this analysis.
2. **By no later than eighteen (18) months after the Secretary's approval of the analysis and BMP design plans**, the permittee shall implement the stormwater BMPs for the designated discharge in accordance with the approved plans.
3. **Within sixty (60) days of completion** of implementation of the identified BMPs, the permittee shall submit to the Secretary a written statement signed by a designer that the identified BMPs have been built or implemented and are currently operating in compliance with the plans and this general permit. As-built-plans shall be submitted with

the certification if the BMPs have changed from the original plans submitted to the Department.

### **B. Designated Discharges from Property with Existing Impervious Surfaces Greater than One Acre that do not have a Previously Issued State Stormwater Permit**

An applicant for permit coverage for property from which there is a designated discharge and that has impervious surfaces greater than one acre that are entirely or partially subject to a previously issued state stormwater discharge permit shall:

1. **By December 31, 2010**, conduct and submit a Site Assessment (SA) conducted in accordance with the Department's VTDEC Procedure for Site Assessments in Appendix B to this general permit.
2. If, after review of the SA and other available information, the Department determines that stormwater BMPs must be implemented for the subject property in order to implement the applicable TMDL, the Secretary shall reopen this permit to specify and require implementation of these stormwater BMPs by the permittee. The Secretary shall require that implementation of such BMPs be completed within 18 months of the effective date of the amended permit.
3. **By June 30, 2010**, the permittee shall implement the BMPs set forth in Appendix C of this general permit. Authorization to discharge shall terminate at any time after June 30, 2010, if the BMPs set forth in Appendix C are not being implemented for a designated discharge.

### **C. Designated Discharges from Property with Existing Impervious Surfaces Less than One Acre that do not have a Previously Issued State Stormwater Permit**

A designated discharge from property that has impervious surfaces less than one acre that are not subject to a previously issued state stormwater discharge permit shall be authorized to discharge upon the effective date of this permit. **By June 30, 2010**, the permittee shall implement the BMPs set forth in Appendix C of this general permit. Authorization to discharge shall terminate any time after June 30, 2010 if the BMPs set forth in Appendix C are not being implemented for a designated discharge.

## **V. OPERATION AND MAINTENANCE**

### **A. Operation and Maintenance of Stormwater Collection, Treatment and Control System**

The permittee shall at all times properly operate, inspect and maintain all stormwater BMPs that are installed or used by the permittee to achieve and maintain compliance with this general permit. The permittee shall use the operation, maintenance and inspection checklists provided by the Secretary. The condition of the stormwater BMPs shall at no time contribute to a violation of the terms, conditions, requirements,

limitations, and restrictions specified by this general permit or any authorization to discharge issued hereunder.

## **B. Annual Inspection and Report**

The stormwater BMPs for a designated discharge shall be properly operated and maintained and shall be inspected at least twice per year, once in the spring after snow melt, and once in the fall prior to snow fall. The inspection shall evaluate the operation, maintenance and condition of the stormwater collection, treatment and control system. The permittee shall prepare an annual inspection report on a form provided by the Secretary regarding the operation, maintenance and condition of the stormwater BMPs. The inspection report shall note all problem areas and all measures taken to correct any problems and to prevent future problems. The permittee shall submit the annual inspection report to the Secretary by December 31<sup>st</sup> of each year.

## **C. Designer's Restatement of Compliance**

In accordance with a schedule provided in the authorization to discharge, a permittee shall submit to the Secretary a written statement signed by a designer that the stormwater BMPs for a designated discharge are properly operating and maintained. Failure to submit a designer's re-statement of compliance shall constitute a violation of this general permit and may result in the revocation of an authorization to discharge under this general permit.

## **D. Corrective Action**

Any erosion or associated discharge of sediment from the stormwater BMPs for a designated discharge shall be corrected immediately. Any deficiencies noted during inspections shall be corrected as soon as possible, but no later than thirty (30) days after detection.

## **E. Changes to Authorized Discharge or Impervious Surfaces**

A permittee shall notify the Secretary of any planned development, facility, or impervious surface expansions and/or changes that may result in new, expanded or increased stormwater discharges. The Secretary may require the permittee to submit additional information on the proposed changes. If there will be a new, expanded or increased stormwater discharge, the permittee shall obtain coverage under a state stormwater permit for such new, expanded or increased discharge if required pursuant to EPR Chapter 22 and 10 V.S.A. Sections 1264 and 1264a, or under another appropriate general or general permit issued by the Secretary.

## **F. Recordkeeping**

The permittee shall retain on-site a copy of all written records relating to the stormwater BMPs and this general permit until further notice by the Secretary. The permittee shall make such records available to the Secretary upon request in accordance with Subpart VI.K. of this permit.

## **VI. STANDARD CONDITIONS**

### **A. Duty to Comply**

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

### **B. Duty to Reapply**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

### **C. Continuation of Expired General Permit**

If this permit is not reissued or replaced prior to its expiration date, but the Department makes a determination that it will be renewed, this permit will be administratively continued and remain in full force and effect. Any permittee that was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earliest of the following:

1. Reissuance or replacement of this permit, at which time the permittee must comply with the conditions of the new permit to maintain authorization to discharge; or
2. The permittee submits a Notice of Termination (NOT) pursuant to subpart VI.C. and the NOT is approved by the Secretary; or
3. Issuance of an individual permit for the designated discharge; or
4. A formal permit decision by the Secretary not to reissue this general permit, at which time the permittee must seek coverage under an alternative general permit or an individual permit.

#### **D. Notice of Termination**

The permittee shall submit a Notice of Termination (NOT) on a form provided by the Department within twenty (20) days of ceasing a designated discharge to waters of the State or waters of the United States. The Secretary shall review and approve or deny the NOT. If the Secretary denies the NOT, the permittee shall maintain coverage under this permit.

#### **E. Requiring an Individual Permit**

1. The Secretary may require the owner or operator of a designated discharge to apply for an individual NPDES stormwater permit. Any interested person may petition the Secretary to take action under this Subpart. Cases where an individual permit may be required include the following:

- a. The discharge(s) is a significant contributor of pollution as determined by the following factors:
  - i. the location of the discharge with respect to waters of the State;
  - ii. the size of the discharge;
  - iii. the quantity and nature of the pollutants reaching waters of the State and the impacts of the pollution on the receiving water; and
  - iv. other relevant factors.
- b. The discharger is not in compliance with the terms and conditions of this general permit or does not qualify for coverage under this general permit.
- d. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes applicable to the discharge.
- e. Federal effluent limitation guidelines are promulgated for discharges covered by this general permit.
- f. If necessary to implement a waste management strategy contained in any applicable basin plan.

2.. If the Secretary finds that a permittee authorized by this general permit is required to apply for an individual permit, the Secretary shall so notify the permittee. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the permittee to file the application, and a statement that on the effective date of the individual permit this general permit as it applied to the individual permittee shall automatically terminate. The Secretary may grant additional time upon request of the applicant.

3. When an individual permit is issued to a person otherwise subject to this general permit, the applicability of this general permit to the individual permittee is automatically terminated on the effective date of the individual permit.

4. Any permittee authorized by this general permit may request to be excluded from coverage of this general permit provided the permittee submits information supporting the request. If the Secretary finds that the terms and conditions of this general permit do not apply to the discharge, or that the discharge is more appropriately covered by an individual permit, the Secretary shall grant the request and shall so notify the permittee in writing of his/her decision. Upon receipt of such notification, the permittee shall submit to the Secretary an application for an individual permit. The applicability of this general permit is not terminated until the effective date of the individual permit.

#### **F. Requiring Coverage Under this General Permit**

1. The Secretary may require any person applying for issuance of an individual NPDES permit to be subject to this general permit provided the Secretary finds the discharge complies with all conditions of this general permit and the discharge is more appropriately covered under this general permit.

2. Any permittee subject to an individual permit and wishing to discharge subject to this general permit may file a notice on forms provided by the Secretary. Upon the request of the Secretary, any person who files a notice shall submit such additional information that may be necessary to enable the Secretary to authorize the discharge under the terms of this general permit. Each notice shall be accompanied by a fee as specified by the Secretary and established by law.

3. Any permittee subject to an individual permit shall be authorized to discharge under the terms of this general permit upon:

a. the issuance of a notice by the Secretary authorizing the discharge under the terms of this general permit, and;

b. expiration of the individual NPDES permit under which the permittee was previously authorized to discharge.

#### **G. Inclusion of Permit Requirements in Another NPDES Permit**

The requirements of this general permit may be included in an alternative NPDES general permit or NPDES individual permit provided that the requirements of the alternative NPDES general permit or individual permit are at least as stringent as this permit. If the requirements of this general permit are included in an alternative general or individual NPDES permit, and a permittee obtains such coverage, then coverage under this permit is not required.

#### **H. Revocation of Authorization to Discharge Under this General Permit**

1. The Secretary may, after notice and opportunity for public hearing pursuant to 3 V.S.A. Section 814 revoke or suspend, in whole or in part, authorization to discharge under this general permit for cause, including but not limited to:

- a. Violation of any terms or conditions of the general permit;
- b. Obtaining a general permit by misrepresentation or failure to disclose fully all relevant facts;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; and
- d. Violations of the Vermont Water Quality Standards.

#### **I. Transfer of Authorization to Discharge**

- 1. An authorization to discharge under this general permit may be transferred in accordance with this Subpart.
- 2. A notice of transfer must be submitted to the Secretary no later than thirty (30) days after the transfer and shall include the following:
  - a.. The name and address of the present permittee;
  - b. The name and address of the prospective permittee;
  - c. The proposed date of transfer; and
  - d. A statement signed by the prospective permittee, stating that:
    - i. The conditions of the facility operation that contribute to, or affect, any discharge will not be materially different under the new ownership; and
    - ii. He/she has read and is familiar with the terms of the permit and agrees to comply with all the terms and conditions of the permit.

#### **J. Modification of this General Permit**

After notice and opportunity for a public meeting, this permit may be modified in accordance with Section 13.12.C.7 of the Vermont Water Pollution Control Rules.

#### **K. Right of Inspection and Entry**

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

- (1) enter upon and inspect the permittee's property where a designated discharge is located or conducted or where records must be kept under the conditions of this permit;

(2) have access to and copy any records that must be kept under the conditions of this permit;

(3) inspect any facilities, equipment, practices or operations regulated or required under this permit; and

(4) to sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the federal Clean Water Act or state law, any substances, pollutants, or parameters, including BMP performance, at any location.

#### **L. Operating Fees**

Stormwater discharges authorized by this general permit may be subject to operating fees pursuant to 3 V.S.A. Section 2822. The permittee shall submit all operating fees in accordance with procedures provided by the Secretary. Failure to pay all operating fees shall constitute a violation of this general permit. Currently there are no fees associated with the issuance of permits under this program.

#### **M. Unauthorized Discharges**

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

#### **N. Limitations**

1. This general permit conveys no vested rights or exclusive privileges. The general permit conveys no title to land nor authorizes any injury to public or private property. The general permit does not authorize infringement of any applicable federal, state or local laws or regulations nor obviate the necessity of obtaining such additional permits as may be required.

2. Nothing in this permit shall be construed as having relieved, modified, or in any manner affected the permittee's ongoing obligation to comply with all other federal, state or local statutes, regulations or directives applicable to the permittee in the operation of its business, nor does it relieve the permittee of the obligation to obtain all necessary federal, state and local permits.

#### **O. Historic Properties**

Each permittee must comply with any applicable federal, state and local laws concerning the protection of historic properties and places.

## **P. Reopener Clause**

If, after granting authorization to discharge under this general permit, the Secretary determines, in his or her discretion, that there is evidence indicating that an authorized stormwater discharge causes or has the reasonable potential to cause or contribute to a violation of the Vermont Water Quality Standards, the Secretary may require the permittee to obtain an individual permit, or the Secretary may modify the authorization to discharge to include different limitations and/or requirements in accordance with this general permit.

## **Q. Need to Halt or Reduce Activity Not a Defense**

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

## **R. Duty to Provide Information**

The permittee shall furnish to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing or termination this permit or to determine compliance with this permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept pursuant to this permit.

## **S. Anticipated Noncompliance**

The permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

## **T. Permit Actions**

A request by a permittee for a permit modification, revocation and reissuance or termination or a notification of planned changes or anticipated non-compliance does not stay any permit condition.

## **U. Property Rights**

This permit does not convey any property rights of any sort, or any exclusive privilege. This general permit conveys no title to land nor authorizes any injury to public or private property.

## **V. Signatory Requirements**

1. All applications, including NOIs, must be signed as follows:

a. For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. Commissioner of the Department).

2. All reports required by this permit must be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a.. The authorization is made in writing by a person described above;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

c. The signed and dated written authorization is included in this permit. A copy must be submitted to the Secretary, if requested.

3. Any person signing documents required under the terms of this permit must include 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 diligent inquiry of the person or persons who manage the system or actions required

by this permit, or those persons directly responsible for gathering the information, 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.”

**VII. VIOLATION OF PERMIT REQUIREMENTS; ENFORCEMENT**

A permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of 10 V.S.A. Chapter 47 and the federal Clean Water Act, and is grounds for an enforcement action, or suspension or revocation of the permittee’s authorization to discharge under this permit.

**VIII. APPEALS**

This permit may be appealed to the Vermont Environmental Court in accordance with 10 V.S.A. Section 220.

**IX. EFFECTIVE DATE AND TERM OF GENERAL PERMIT**

This permit shall become effective upon signing and shall expire five (5) years from the date of signing.

Signed this \_\_\_\_\_ day of October, 2009.

Justin G. Johnson, Commissioner  
Department of Environmental Conservation

By \_\_\_\_\_  
Peter LaFlamme, Director  
Water Quality Division

## **APPENDIX A - Permit Submittal Requirements And Collection, Treatment And Control Standards For Designated Discharges From Property With Existing Impervious Surfaces That Are Also Subject To A Previously Issued State Stormwater Permit**

This procedure shall be followed by permittees for designated discharges specified in Subpart 4.A. of the Department's NPDES General Permit 3-9030 for Designated Discharges to the Bartlett, Centennial, Englesby, Morehouse and Potash Brook Watersheds. **By June 31, 2011**, permittees for such designated discharges shall conduct and submit to the Department an analysis conducted in accordance with this procedure. This procedure provides a process by which permittees shall identify opportunities for maximizing on-site treatment of residually designated discharges and identify stormwater BMPs that shall be implemented by permittees in accordance with Subpart 4.A. **By no later than eighteen (18) months after the Secretary's approval of the analysis and BMP design plans**, the permittee shall implement the stormwater BMPs for the designated discharge in accordance with the approved plans.

### **Step One: Identification of Opportunities for On-Site Treatment**

A site-specific analysis will be used for maximizing on-site treatment of stormwater runoff from existing impervious surfaces. The basis for this analysis is the VSWMM. The VSWMM was designed to set stormwater management standards for new construction on undeveloped sites and not for retrofits of already developed sites. In lieu of adopting a separate set of standards appropriate for retrofit projects, the secretary will require designated discharges with pre-existing state stormwater permits to meet all practicable requirements on site for three of the five stormwater treatment standards in the VSWMM as defined by this Appendix. The engineering feasibility analysis covers the infiltration, channel protection (hydrology), and water quality treatment requirements in the VSWMM. These discharges will not be required to meet the VSWMM requirements for the ten and one hundred year floods. Priority for on-site retrofit implementation is given first to recharge, then hydrological control, and finally wash-off load reduction. The specific treatment and control practices determined through use of this analysis shall then be implemented at the site.

The existing *site* (including contiguous land owned or controlled by the subject property owner and within the impaired watershed of the designated discharge) shall be evaluated for its potential to maximize treatment for infiltration, channel protection and water quality treatment. The priority of treatment assessment is provided in Table 1. All necessary considerations for treatment suitability shall be followed, as provided in the Manual. In addition, all required design elements specified in the Manual shall be evaluated and incorporated into the final design of specific stormwater collection, treatment and control practices. Please note the increased infiltration requirements; infiltration of all runoff from impervious surfaces from the 1-year storm is required by this permit.

**Step Two: Submittal of Engineering Feasibility Analysis Report**

To comply with Subpart IV.A. of the General Permit for Designated Discharges, the permittee shall submit to the Department an Engineering Feasibility Analysis Report on a form to be provided by the Secretary.

**Table 1**  
Residual Designation Engineering Feasibility Analysis  
Priority Ranking of Retrofit Analysis

<b>2002 VSWMM Criteria</b>	<b>Specific Analysis Requirements in Order of Priority</b>
Recharge Volume ( $RE_v$ )	1. Infiltration of all impervious surface runoff from the 1-year storm.  This requirement exceeds the $RE_v$ requirement of the Manual
Channel Protection Volume ( $CP_v$ )	2. Provide 12 or 24-hr detention (depending on receiving water fishery status) of non-infiltrated runoff from the 1-yr storm.
Water Quality Volume ( $WQ_v$ )	3. Provide treatment of the Water Quality Volume. Infiltration of this volume is considered compliant with the Manual.

Table 2 identifies the feasibility criteria to be used to modify the feasibility analysis required by Table 1. These are intended to accommodate the space, development, and natural resource constraints on existing developed sites. The final feasibility analysis submitted to DEC shall reflect the treatment and control assessment undertaken in accordance with Table 1 as modified by the factors in Table 2.

**Table 2**  
Residual Designation Engineering Feasibility Analysis

1	Analysis will not require installation of sub-surface storage or treatment structures
2	Analysis will not require purchase or acquisition of additional land
3	Analysis will not require demolition of buildings or removal of existing impervious surfaces to point of interference with either the existing land use or material conditions of any existing land use permits
4	Analysis will not require off-site treatment of stormwater
5	Analysis will not require either site re-grading or site re-contouring to point of permanent interference with either the existing land use or material conditions of any existing land use permits
6	Analysis will not require pumping or otherwise mechanical re-routing of stormwater runoff.
7	Analysis will not require mechanical or chemical treatment of stormwater
8	Analysis will not allow infiltration where basement flooding or subsurface pollutant plume transport will occur.
9	Analysis will not require the construction of any infrastructure within the Fluvial Erosion Hazard area of any receiving water or within any wetland or its 50-foot buffer zone.
10	Analysis will not require the destruction of contiguous forested areas exceeding 1,000 square feet. The removal of trees in non-contiguous forested areas shall be considered when replacement of lost trees is feasible per this table.

**APPENDIX B - Permit Submittal Requirements And Collection, Treatment And Control Standards For Designated Discharges From Property With Existing Impervious Surfaces Greater Than One Acre That Do Not Have A Previously Issued State Stormwater Permit**

The site assessment information requested below shall be provided by permittees for designated discharges specified in Subpart 4.B. of the Department's NPDES General Permit 3- 9030 for Designated Discharges to the Bartlett, Centennial, Englesby, Morehouse and Potash Brook Watersheds. **By December 31, 2010**, permittees for such designated discharges shall submit a completed Site Assessment to the Department. The information provided in the Site Assessment will be used by the Department to assess opportunities for the implementation of stormwater BMPs on the subject property as necessary to meet water quality standards.

1. Applicant Name(s):  
\_\_\_\_\_
2. Is this SA being submitted in connection with a subdivision (e.g. residential or commercial subdivisions, condominiums and industrial parks)? \_\_\_\_\_(Yes/No)
3. Address of Applicant(s):  
\_\_\_\_\_  
\_\_\_\_\_
4. Telephone Number: \_\_\_\_\_
5. Fax: \_\_\_\_\_
6. E-mail: \_\_\_\_\_
7. Project Name:  
\_\_\_\_\_
8. Project Location Address and Lat/Long (dd, mm, ss)  
\_\_\_\_\_
9. Act 250 Permit Number (if any): \_\_\_\_\_
10. Number of discrete discharge points from the project: \_\_\_\_\_
11. Receiving Water: \_\_\_\_\_
12. How is water conveyed to the receiving water?  
\_\_\_\_\_

13. Total Lot Area (acres): \_\_\_\_\_ Impervious Area (acres): \_\_\_\_\_
14. Attach a topographic map (11" x 17" **max**) drawn at an appropriate scale showing the location of the site, discharge point(s) and receiving water(s). \_\_\_\_ (✓)
15. Attach one or more site plans (11" x 17" **min**) with the information below. All plans should have a legend, scale bar, and north arrow. Plans shall be prepared by a licensed surveyor, professional engineer, or Stormwater Designer. \_\_\_\_ (✓)

**Required Site Plan Information**

**1 General Site Information**

- Property Boundaries
- Areas of impervious cover (e.g. roofs, sidewalks, and paved or gravel driveways and parking lots).
- Location of adjacent roads
- Receiving water (including streams, ponds, or wetlands)

**2 Water Flow and Conveyance**

- Elevation contours
- Catch Basins (include size, rim elevation, and inlet/outlet elevations)
- Pipes & culverts (include diameter, material, slope, and length)
- Drainage ditches and swales
- Current stormwater treatment (e.g. ponds, infiltration basins, filters, rain gardens, cisterns, drywells, etc)
- Roof gutters and downspouts
- Drainage area boundaries
- Discharge Point(s) from the site
- Make a note of any runoff that comes on the property from offsite

**3 Other site features** – note features on the site that may limit certain types of treatment

- USDA NRCS Soil Hydrologic Group (may be included as a separate map). The site assessor shall confirm the accuracy of the soil survey by visual inspection and delineate areas of deviation from the published survey (e.g. areas of fill, presence of clay soils in an area denoted as HSG A on the soil survey).
- Utilities such as power lines, sewer, drinking water, or gas lines. Delineate any known easements
- Depth to bedrock

- Areas of active erosion
- Tree cover/ Forested areas
- Conserved or protected areas

16. Date of site assessment: \_\_\_\_\_

17. DESIGNER CERTIFICATION: I hereby certify that in the exercise of my reasonable professional judgment, the information submitted with this site assessment is true and correct:

\_\_\_\_\_  
Original Signature of Stormwater Designer Title

\_\_\_\_\_  
Print or Type Name

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## **APPENDIX C - Permit Submittal Requirements And Collection, Treatment And Control Standards And Best Management Practices For Discharges Specified In Subparts IV. B And C of The Department's General Permit For Designated Discharges**

This procedure describes the BMPs that shall be implemented by permittees for designated discharges specified in Subparts IV.B and C of General Permit for Designated Discharges (General Permit 3- 9030). **By June 30, 2010**, permittees for such designated discharges shall implement the BMPs specified in this Appendix to maximize sheet flow and infiltration of stormwater on their property, prevent soil erosion and minimize pollutants in stormwater runoff from their property.

### **Maximize Sheet-flow and Infiltration**

Designated discharges shall maximize the ability of the site to achieve sheet-flow of stormwater runoff, as opposed to directing runoff into ditches, pipes, or other means of conveyance. This may be accomplished through use of the following practices:

- Disconnect, or re-direct, roof-gutter downspouts to allow stormwater to run onto vegetated areas instead of onto impervious areas or to ditches or pipes. Runoff should be directed onto vegetated areas with the least slope, most vigorous vegetation, and greatest distance to either the receiving water or any type of stormwater conveyance. In no case should roof runoff be re-directed in a manner that will cause or exacerbate flooding, seepage, or other similar water-related issues to any existing structures.
- Rain gardens are an effective means of achieving treatment and infiltration of stormwater runoff, especially in cases where the ability to achieve sheet flow over vegetated areas is limited due to space. The Vermont Rain Garden Manual (NRCD) provides instructions on the location, construction, and care of rain gardens and is available online at <http://vacd.org/winooski/VtRainGardenManual.pdf>

### **Prevent and Eliminate Soil Erosion**

Designated discharges shall eliminate areas of active erosion through re-vegetation, or stabilization with stone or other similar means. New construction that does not require a NPDES permit for disturbances of 1 or more acres of land shall implement proper erosion prevention and sediment control techniques to minimize the discharge of soil, or sediment, from the site. The "Low Risk Handbook for Erosion Prevention and Sediment Control is available online at [http://www.vtwaterquality.org/stormwater/docs/construction/sw\\_low\\_risk\\_site\\_handbook.pdf](http://www.vtwaterquality.org/stormwater/docs/construction/sw_low_risk_site_handbook.pdf)

## **Prevent and Eliminate Delivery of Stormwater Pollutants to Conveyances**

Designated Discharges shall not wash or rake anything directly into road gutters, a storm drain or catch basin. The “Small Site Stormwater BMP Guide” is available online at <http://www.vtwaterquality.org/stormwater/>

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## **APPENDIX D - Threatened and Endangered Species Protection**

You are eligible for coverage under this permit if your stormwater discharge-related activity is not likely to jeopardize the continued existence of a State or federally listed threatened or endangered species or result in the destruction or adverse modification of critical habitat. In order to determine whether your stormwater discharge-related activity will cause such jeopardy, thereby making you ineligible for coverage, the following process should be followed. For purposes of this analysis, “stormwater discharge-related activity” means the BMPs that will be constructed and operated as required by this general permit and associated areas of disturbance (e.g. area where a stormwater detention pond will be built).

### **I. APPLICABLE CRITERIA FOR EVALUATING IMPACT OF STORMWATER DISCHARGE-RELATED ACTIVITIES**

You should use the process outlined in Part II below to evaluate your project in light of one or more of the following six criteria (A-F):

**Criterion A.** No state or federally-listed threatened or endangered species or their federally designated critical habitat are in the Project Area as defined in Subpart II of the general permit, or

**Criterion B.** Formal consultation with the Fish and Wildlife Service (Service) under section 7 of the Endangered Species Act (ESA) has been undertaken and that consultation:

- i. Addressed the effects of the project’s stormwater discharge-related activities on federally-listed threatened or endangered species and federally designated critical habitat, and
- ii. The consultation resulted in either:
  - a. a biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
  - b. written concurrence from the Service with a finding that the stormwater discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or

**Criterion C.** Informal consultation with the Fish and Wildlife Service under section 7 of the ESA has been undertaken and that consultation:

- i. Addressed the effects of the project’s stormwater discharge-related activities on federally-listed threatened or endangered species and federally designated critical habitat, and

ii. The consultation resulted in either:

a. a biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or

b. written concurrence from the Service with a finding that the stormwater discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or

**Criterion D.** In the case that a state listed species is identified, the stormwater discharge-related activities are authorized through the issuance of an Endangered and Threatened Species permit under 10 V.S.A. Section 5408 and that authorization addresses the effects of the stormwater discharge-related activities on state-listed species. In the case that a federally listed species is identified, the stormwater discharge-related activities are authorized through the issuance of a permit under section 10 of the ESA, and that authorization addresses the effects of the stormwater discharge-related activities on federally-listed species and federally-designated critical habitat; or

**Criterion E.** Stormwater discharge-related activities are not likely to adversely affect any state or federally-listed threatened or endangered species or result in the destruction or adverse modification of state or federally-designated critical habitat; or

**Criterion F.** The project's stormwater discharge-related activities were already addressed in another permittee's determination, or in another permitting action, under Criteria A-E which included the activities and there is no reason to believe that state and federally-listed species or state and federally-designated critical habitat not considered in the prior determination or action may be present or located in the Project Area.

## **II. PROCESS TO FOLLOW TO ASSESS YOUR STORMWATER DISCHARGE-RELATED ACTIVITIES**

You should follow this process to assess the potential effects of your stormwater discharge-related activities on state and federally listed species and the critical habitat of any federally-listed species. When evaluating these potential effects, you should evaluate the entire Project Area, as that term is defined in Subpart II of the general permit. Note that dischargers who meet Criterion B, C, D, or F because they have both a previously issued ESA section 10 permit and an Endangered and Threatened Species permit under 10 VSA section 5408 , a previously completed ESA section 7 consultation and consultation with the Vermont Department of Fish and Wildlife, or because their activities were already addressed in another discharger's determination, may proceed directly to Step Four.

**Step One:** Determine if Listed Threatened or Endangered Species and Federally Designated Critical Habitat are Present On or Near Your Project Area.

You must first determine whether state or federally-listed species reside in the Project Area or if there is critical habitat in the Project Area. The Vermont Agency of Natural Resources maintains a web site showing the location of all State and Federally listed species in Vermont. If you know the location or the latitude and longitude of your project, you can visit: <http://www.anr.state.vt.us/site/html/maps.htm> and obtain the necessary information. If there are no listed species or habitat within the Project Area, you are eligible for coverage under this general permit. If there are listed species or critical habitat in the Project Area you should contact the Vermont Department of Fish and Wildlife and you will need to do one or more of the following:

- 1) conduct visual inspections;
- 2) conduct a formal biological survey (typically performed by a environmental consulting firm); or
- 3) if applicable, conduct an environmental assessment under the National Environmental Policy Act (NEPA).

**Step Two:** Determine if your Stormwater Discharge-Related Activities Are Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat

You should assess whether your stormwater discharge- related activities are likely to adversely affect listed threatened or endangered species or designated critical habitat. Potential adverse effects include:

**Hydrological.** Stormwater discharge-related activity may alter drainage patterns on a site where stormwater BMP installation occurs that can impact listed species or critical habitat.

**Habitat.** Site development, grading or other surface disturbances from stormwater discharge-related activities, including storage of materials and the installation or placement of stormwater BMPs, may adversely affect listed species or their habitat.

**Toxicity.** In some cases pollutants from stormwater discharge-related activities may have toxic effects on listed species. The scope of effects to consider will vary with each project. If you are having difficulty determining whether your project is likely to adversely affect listed species or critical habitat, or the State of Vermont Department of Fish and Wildlife or a Federal agency has already raised concerns with your project, you must contact the appropriate office for assistance. If adverse effects are not likely, you have satisfied Criterion E and can apply for coverage under the general permit. If your stormwater discharge-related activities may adversely affect listed species or critical habitat, you must follow Step Three.

**Step Three:** Determine if Measures Can Be Implemented to Avoid Adverse Effects.

If you make a preliminary determination that adverse effects to listed species and/or critical habitat are likely to occur, you are still eligible for general permit coverage if

appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for general permit coverage. These measures may be relatively simple, e.g., re-routing a stormwater discharge to bypass an area where species are located, relocating BMPs, or changing the “footprint” of the discharge-related activity. If you cannot ascertain which measures to implement to avoid the likelihood of adverse effects, you must follow Step Four.

**Step Four:** Determine if Criterion B, C, D or F Can Be Met.

Where adverse effects are likely and you are uncertain about how to avoid or eliminate the likelihood of adverse effects, you must contact the Vermont Department of Fish and Wildlife and/or a Federal agency. However, you may still be eligible for general permit coverage if likely adverse effects can be addressed follows:

- i. A consultation under ESA Section 7 has been performed for your activity (see Criteria B and C).
- ii. In the case that a State listed species is identified, an Endangered and Threatened Species permit under 10 VSA § 5408 has been issued (see Criterion D). Stormwater discharges may be authorized by this general permit if some activity is authorized through the issuance of a permit under 10 VSA §5408 and that authorization addressed the effects of your project on state-listed species and any designated habitat.

In the case that a Federally listed species is identified, you must have both the Endangered and Threatened Species permit under 10 VSA § 5408 listed above and an incidental taking permit under Section 10 of the ESA that has been issued for your activity (see Criterion D). Discharge-related stormwater discharges may be authorized by this general permit if some activity is authorized through the issuance of a permit under both 10 VSA § 5408 and section 10 of the ESA. These authorizations must address the effects of your stormwater discharge-related activities on state and federally-listed species and federally designated critical habitat. You must follow Fish and Wildlife Service procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1)). Application instructions for section 10 permits for Fish and Wildlife Service can be obtained by accessing the Service website (<http://www.fws.gov>) or by contacting the appropriate Service regional office.

- iii. In the case of a state-listed species you have coordinated your activities with the Vermont Department of Fish and Wildlife (see Criterion E). In the absence of any other conditions set forth in Step Four, you may still be covered under this general permit if the Vermont Department of Fish and Wildlife provides a letter or memorandum concluding that the direct and indirect effects of your stormwater discharge-related activities will be unlikely to adversely affect listed species or to adversely modify designated critical habitat. If you adopt measures to avoid or eliminate adverse effects, per the Vermont Department of Fish and Wildlife requirements or recommendations, you must abide by those measures as a condition of coverage under this general permit.

In the case of a federally listed species, you must have coordinated your activities with the Vermont Department of Fish and Wildlife as stated above and you must have coordinated your activities with the appropriate Federal agency (see Criterion E). In the absence of any other conditions set forth in Step Four, you may still be covered under this general permit if a Federal agency provides a letter or memorandum concluding that the direct and indirect effects of your stormwater discharge-related activities will be unlikely to adversely affect listed species or to adversely modify designated critical habitat. If you adopt measures to avoid or eliminate adverse effects, per the Service's requirements or recommendations, you must abide by those measures as a condition of coverage under this general permit.

iv. You are covered under the compliance determination of another operator for the Project Area (see Criterion F). Your stormwater discharge-related activities were already addressed in another discharger's determination under Criteria A through E, which also included your project and determined that state and federally listed endangered or threatened species or federally designated critical habitat would not be jeopardized. You must comply with any measures or controls upon which the other determination under Criterion B, C, or D was based. You must comply with any terms and conditions imposed under Criterion A through F to ensure that your stormwater discharge-related activities are protective of listed species and/or federally-designated critical habitat. If the requirements cannot be met, then you may not be covered under this general permit. In these instances, you may consider applying to the Department for an individual permit.