

**Vermont Agency of Natural Resources
Department of Environmental Conservation**

Flood Hazard Area & River Corridor General Permit

DRAFT June 16, 2016

I. Introduction; Purpose

This General Permit is issued by the Secretary of Natural Resources (Secretary) pursuant to the Vermont Flood Hazard Area & River Corridor Rule (Environmental Protection Rule, Chapter 29) and 10 V.S.A. § 754. The purpose of this General Permit is to ensure that “development exempt from municipal regulation” located within flood hazard areas and river corridors is regulated in accordance with the Rule.

Development exempt from municipal regulation includes state-owned and operated institutions and facilities, accepted agricultural and silvicultural practices, and public utility power generating plants and transmission facilities and telecommunications facilities regulated under Sections 248 and 248a. Development exempt from municipal regulation must have coverage under this General Permit or an individual permit if it is located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. Chapter 117 or, if a state-owned or operated institution or facility, if it is located within a flood hazard area or river corridor, regardless of whether the municipality in which the institution or facility is located has adopted a flood hazard bylaw or ordinance.

If any project proponent is uncertain about the interpretation of, application for, or compliance with this General Permit, he or she should engage the services of a qualified consultant or contact a Department of Environmental Conservation (DEC or Department) Regional Floodplain Manager. The Secretary reserves the right to require an individual permit for any project if deemed necessary by the Secretary pursuant to Section VII of this General Permit. Department contact information is located at: http://dec.vermont.gov/sites/dec/files/wsm/rivers/docs/floodplain_mgr_regions.pdf

II. Definitions

Unless otherwise defined herein, all terms used in this General Permit shall have the meanings set forth in the [Vermont Flood Hazard Area & River Corridor Rule](#),¹ or if not defined therein, shall have their common meaning.

III. Applicability

- (a) **Development exempt from municipal regulation.** This General Permit applies to development exempt from municipal regulation located within flood hazard areas and river corridors and subject to the Vermont Flood Hazard Area & River Corridor Rule. Development exempt from municipal regulation means the following for the purposes of this General Permit: development and

¹ <http://dec.vermont.gov/sites/dec/files/documents/wsmd-fha-and-rc-rule-adopted-2014-10-24.pdf>

substantial improvements to structures that a municipality is prohibited by law from regulating, including: (1) public utility power generating plants and transmission facilities regulated under 30 V.S.A. § 248 (24 V.S.A. § 4413(b)), (2) telecommunications facilities regulated under 30 V.S.A. § 248a (30 V.S.A. § 248a(h)), (3) accepted agricultural practices and silvicultural practices, including farm structures as defined by 24 V.S.A. § 4413(d)(1) (24 V.S.A. § 4413(d)), and (4) state-owned and operated institutions and facilities (24 V.S.A. § 4413(a)(2)).

(b) **Flood hazard areas and river corridors.** This General Permit applies to development exempt from municipal regulation that is: (1) located within a flood hazard area or river corridor of a municipality that has adopted a flood hazard bylaw or ordinance under 24 V.S.A. Chapter 117, or (2) a state-owned or operated institution or facility that is located within a flood hazard area or river corridor, regardless of whether the municipality in which the institution or facility is located has adopted a flood hazard bylaw or ordinance.

(1) **Flood hazard areas.** The Secretary delineates flood hazard areas in a manner consistent with the federal definition of “area of special flood hazard” (44 C.F.R § 59.1), i.e., that land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year (10 V.S.A. § 752(3)). The flood hazard area shall be the area as shown on the most current flood insurance studies and maps published by the Department of Homeland Security, the Federal Emergency Management Agency (FEMA), the National Flood Insurance Program (NFIP), and as provided by the Secretary pursuant to 10 V.S.A. § 753.

(2) **River corridors.** The Secretary delineates river corridors in accordance with the Department of Environmental Conservation’s [Flood Hazard Area and River Corridor Protection Procedure](#) (10 V.S.A. § 1427).

IV. Activities Not Requiring Coverage Under a Flood Hazard Area & River Corridor Permit

This Section lists activities that are exempt from regulation under the Flood Hazard Area & River Corridor Rule and therefore, do not require coverage under this General Permit. Project exemption from coverage under this General Permit does not relieve any person of the responsibility to comply with any and all other applicable federal, state, and local laws, regulations, and permits, and to obtain landowner permission if working on the lands of others. Any person who may be unfamiliar with or unable to ensure that his or her activity is exempt from the Rule should contact an Agency Regional Floodplain Manager². The following activities do not require coverage under this General Permit:

- (1) The removal of a structure or the removal of any other improvement to property in whole or in part that is located in a flood hazard area or river corridor, so long as the ground elevations under and adjacent to the removed structure or improvement remain unchanged.
- (2) Maintenance or repair of development in the usual course of business. This does not include substantial improvements to buildings or repairs to damaged buildings.

² Regional Floodplain Manager contact information at:

http://dec.vermont.gov/sites/dec/files/wsm/rivers/docs/floodplain_mngr_regions.pdf

- (3) Repair, maintenance, replacement, or reconstruction of transportation and utility networks provided that they are of approximately the same vertical and horizontal dimension³. This exemption shall include the repaving of transportation networks.

V. Activities Eligible for Coverage

- (a) (1) **Non-Reporting Activities.** Unless specified otherwise in this General Permit, activities listed in this subsection that are conducted in accordance with the activity-specific standards set forth in this General Permit, are very low impact activities that meet the Flood Hazard Area and River Corridor Standards with a high degree of certainty and may proceed without notification to the Secretary.

- (A) Activities authorized regardless of whether located in the Flood Hazard Area, River Corridor, or both
- a. Fencing that will not impede floodwater movement.
 - b. Construction and maintenance of temporary erosion and sediment control practices that do not require the placement of fill material within the flood hazard area or river corridor. For purposes of this subdivision, “temporary” means that the practices are only needed during construction and will be removed when the project is complete.
 - c. Activities, including farming, forestry, tree planting, and landscaping, when such activities do not involve the placement of structures or other above ground improvements, or earthwork that permanently alters ground elevations (e.g. fill, retaining walls, berms, and terraces).
 - d. Hoop houses used for agriculture that are not affixed to a permanent foundation, are solely used for growing plants, are generally oriented parallel to the river, and are located outside of the floodway.
 - e. Temporary, seasonal docks that are adequately anchored to resist being dislodged during a flood event and that are not located in the floodway. For purposes of this subdivision “temporary” means that the dock is removed and replaced seasonally.
 - f. Streambank armoring and stabilization, retaining walls, and abutment work that does not reduce the cross-sectional flow area of the river or stream channel and in relation to the upstream and downstream channel cross-section and meets the requirements in Section VI(b)(1)⁴.

³ Emergency repair, stabilization, or replacement of a transportation or utility network, that does not qualify for the exemption in Section IV, will need to be authorized under this General Permit or obtain an Individual Permit when such repairs or replacement are made permanent or the temporary repairs remain in place beyond one construction season.

⁴ The project may also need to comply with the requirements of the Vermont Stream Alteration Rule: <http://dec.vermont.gov/watershed/rivers/river-management#rules>. As required by the Required Agricultural Practices, agricultural streambank armoring shall be constructed in accordance with the USDA NRCS standards and

- g. Construction of temporary at-grade equipment access, for maintenance, construction, or repair work that is restored at the end of construction. For purposes of this subdivision, “temporary” means that the practices are only needed during construction and will be removed when the project is complete.
- h. Recreational vehicles, equipment and boat trailers, portable toilets, and construction trailers that are currently registered, licensed, and ready for highway use or are on site for less than 180 days.

(B) Activities located in the Flood Hazard Area

- a. At-grade driveways, trails, and sidewalks or other at-grade development. At-grade development includes development that does not alter existing ground elevations and will have a minimal effect on floodwater storage and conveyance.
- b. New below grade utility networks that are protected from scour and inundation and do not change the ground elevations.
- c. New and replacement signage, signals, and lighting that do not include the use of fill.

(C) Activities located in the River Corridor

- a. New or replacement bridges and culverts, and associated temporary construction staging and access, that do not qualify for the exemption in Section IV⁵.
- b. Slip-lining of culverts.
- c. Construction of temporary equipment access that may result in temporary fill placement for maintenance, construction, or repair work, and that will be restored to pre-construction conditions at the end of construction.

- (2) Any person who may be unfamiliar with or unable to ensure that his or her activity will be in compliance with the Flood Hazard Area and River Corridor Standards (Section VI) should contact an Agency Regional Floodplain Manager⁶. Failure to comply with the Flood Hazard Area and River Corridor Standards in accordance with the requirements of this General Permit may be cause for an enforcement action (Section VIII(h)). If a project is not eligible for coverage under Section V(a) above, a project proponent may not proceed until the project ob-

specifications or other standards approved by the ANR and the Agency that are consistent with policies adopted by the Secretary of Natural Resources to reduce fluvial erosion hazards.

⁵ The project may also need to comply with the requirements of the Vermont Stream Alteration Rule: <http://dec.vermont.gov/watershed/rivers/river-management#rules>

⁶ Regional Floodplain Manager contact information at: http://dec.vermont.gov/sites/dec/files/wsm/rivers/docs/floodplain_mngr_regions.pdf

tains project approval in accordance with Section V(b)(1) below, or obtains an Individual Flood Hazard Area and River Corridor Permit in accordance with Section VII below.

(b) (1) **Reporting Activities Requiring Registration.** The following activities are eligible for coverage under this General Permit and must comply with the requirements set forth in this subsection.

(A) Activities authorized regardless of whether located in the Flood Hazard Area, River Corridor, or both

- a. Temporary storage of materials and temporary construction staging areas. If located in the flood fringe, the storage of materials shall not exceed 180 days. If located in the river corridor, storage shall not exceed the duration of the project. Storage of materials in the floodway is prohibited. For the purposes of this General Permit, “materials” means those items that are not enclosed in a structure or anchored, and may be mobilized during a flood. Examples include stockpiles of topsoil, sand, gravel, crushed asphalt, lumber, logs harvested on site, or loose construction or demolition material. For purposes of this subdivision, “temporary storage” does not include ongoing use of the site for changing stockpiles or materials.
- b. Recreational vehicles, equipment and boat trailers, portable toilets, and construction trailers placed temporarily (< 180 days) and that are not currently registered, licensed, and ready for highway use.

(B) Activities located in the Flood Hazard Area

- a. New and replacement signage, signals, and lighting that include the use of fill and will have no more than a minimal effect on floodwater storage and conveyance.
- b. New and replacement fuel storage tanks that meet the Flood Hazard Area Standards in Section VI(b).
- c. New and replacement utility network crossings that meet the Flood Hazard Area Standard in Section VI(b).
- d. Slip-lining of culverts that does not result in an increase to published base flood elevations.
- e. New and replacement utility network poles, including pole anchoring and supports, that meet the Flood Hazard Area Standard in Section VI(b)
- f. Replacement bridges and culverts, minor stream crossing realignment, road widening/embankment fills, associated with an existing transportation network, stream crossing, and right-of-way that do not increase base flood elevations.
- g. New and replacement bridges and culverts associated with agriculture or forestry that do not increase base flood elevations.

- h. Renovations or repairs to existing buildings with a value less than \$5,000 that do not include exterior additions.
- i. Construction of temporary equipment access that may result in temporary fill placement for maintenance, construction, or repair work, that will be restored to pre-construction conditions at the end of the same construction season.

(C) Activities located in the River Corridor

- a. Stream realignment associated with an existing transportation network⁷.
- b. Transportation network development within the existing right-of-way that meets the standard in Section VI(a)(1)(A)⁵.
- c. New and replacement fuel storage tanks that are not placed closer to the river than the pre-existing fuel storage tank and meet the standards in Section VI(a)(1)(A).
- d. Replacement or additional utility network poles, including related pole anchoring and supports, associated with an existing utility network transmission line and that are no closer to the river than the pre-existing poles.
- e. New below grade utility network crossings that meet the following requirements consistent with the No Adverse Impact Standards in Section VI(a)(1):
 - i. For streams draining greater than two square miles, the crossing will be set below grade at a minimum depth of 10 feet below the depth of the stable longitudinal profile of the stream bed for the width of the meander belt component of the river corridor⁸.
 - ii. For streams draining less than two square miles, the crossing will be set below grade a minimum depth of five feet below the depth of the stable longitudinal profile of the stream bed for the width of the river corridor. For streams draining less than two square miles, a fifty foot set back from each side of the stream's top of bank shall constitute the river corridor⁶.
- f. New or replacement utility network crossings that aerially span the width of the river corridor.

(2) **Authorization Documentation.** Proposed activities qualifying for coverage under Section V(b)(1) shall provide the following information on a form provided by the Secretary:

⁷ The project may also need to comply with the requirements of the Vermont Stream Alteration Rule: <http://dec.vermont.gov/watershed/rivers/river-management#rules>

⁸ The meander belt component of the river corridor is defined in Section 4.0(b) of the Flood Hazard Area and River Corridor Protection Procedure and may be modified by DEC based on field specific conditions.

- (A) A map clearly showing the location of the proposed activity. To expedite review and authorization, provide a map generated from the ANR Natural Resources Atlas showing the river corridor and flood hazard area (<http://anrmaps.vermont.gov/websites/anra/>);
 - (B) A written description of the proposed project indicating which activity will be conducted under Section V(b)(1) and how it will meet the Flood Hazard Area and River Corridor Standards (Section VI); and
 - (C) Landowner and consultant names and contact information.
- (c) (1) **Reporting Activities Requiring a Full Application.** The following activities are eligible for coverage under this General Permit and must comply with the application requirements set forth in this subsection.
- (A) Improvements or repairs⁹ to buildings in the flood hazard area, costing less than 50% of the fair market value of the building.
 - (B) Construction or placement of accessory buildings less than 500 square feet in size in the flood hazard area, but not in the floodway or river corridor, and that meet the Flood Hazard Area Standard in Section VI(b).
 - (C) Construction of temporary equipment access in a flood hazard area that may result in temporary fill placement exceeding one construction season for maintenance, construction, or repair work, and that will be restored to pre-construction conditions at the end of the construction project and does not result in any increases to published base flood elevations.
 - (D) Agricultural waste storage facilities that meet the Flood Hazard Area and River Corridor Standards in Section VI.
 - (E) New development that is not located in a flood hazard area, but is located within the river corridor that complies with the requirements of Appendices A or B of the Flood Hazard Area and River Corridor Protection Procedure¹⁰ or that is within a designated center or farm production area and is not any closer to the river than immediately adjacent development.
 - (F) Restoration projects to restore natural floodplain function including berm removal, natural channel design, floodplain excavations, wetland habitat improvements, and dam removal.

⁹ Costs of labor and materials and fair market value (FMV) will need to be reported to document that the cost to improve or repair the structure does not equal or exceed 50% of FMV. If the costs equal or exceed 50% of FMV, the structure is being substantially improved and an individual permit will be required.

¹⁰ The Secretary has determined that development meeting the criteria in Appendices A or B of the [Flood Hazard Area & River Corridor Protection Procedure](#) meets the River Corridor Performance Standard.

- (2) **Application for Authorization.** Proposed activities qualifying for coverage under Section V(c)(1) shall provide the following information on an application form provided by the Secretary:
- (A) A map clearly showing the location of the proposed activity. To expedite review and authorization, provide a map generated from the ANR Natural Resources Atlas showing the river corridor and flood hazard area (<http://anrmaps.vermont.gov/websites/anra/>);
 - (B) A written description of the proposed project, and name and contact information for the landowner(s), abutting landowners, and consultants. The written description should clearly indicate which activity will be conducted under Section V(c)(1) and how it will meet the Flood Hazard Area & River Corridor Standards (Section VI); and
 - (C) For improvements or repairs to existing structures, the costs of materials, labor, and, for work in excess of \$5,000, an estimate of fair market value (recent appraisal or tax assessment).

VI. Flood Hazard Area and River Corridor Standards

- (a) **River Corridor No Adverse Impact Standard.** The following are the standards applicable to development located in the river corridor. Development not qualifying for authorization under this General Permit may need to meet additional standards as outlined in the Rule.
- (1) Development exempt from municipal regulation shall not be allowed within the river corridor except for:
 - (A) Redevelopment and infill development within designated centers and farm production areas provided that the distance between the redevelopment or infill development and the river or stream is no less than the shortest distance between immediately adjacent existing above ground development and such river or stream or, pursuant to subdivisions (i) and (ii) of this subsection, if the Secretary determines that the proposed redevelopment or infill development will not cause or contribute to fluvial erosion hazards. Outside of designated centers and farm production areas, development shall be allowed within the river corridor if the Secretary determines that the proposed development will not cause or contribute to fluvial erosion hazards. The Secretary must find that a proposed development will not:
 - (i) cause the river reach to depart from or further depart from the channel width, depth, meander pattern, and slope associated with natural stream process and equilibrium conditions; and
 - (ii) result in an immediate need or anticipated future need for stream channelization, as a result of the proposed development, that would increase flood elevations and velocities or alter the sediment regime triggering channel adjustments and erosion in adjacent and downstream locations.
 - (B) Bridges, culverts, utility crossings, and associated transportation and utility networks; dams; and functionally dependent uses that must be placed in or over rivers and streams. “Associated transportation and utility networks” means those transportation and utility networks connected to a bridge, culvert, or utility for the purpose of crossing a river or

stream and do not include transportation or utility networks within the river corridor that merely run parallel to a river or stream.

- (C) Public water accesses, if the applicant demonstrates and the Secretary finds that the recreational area provides access to the water for the general public and promotes the public trust uses of the water. The Secretary may require additional permit conditions that further the purpose of this Rule, including conditions that prohibit the State from actively managing the section of river associated with the public water access and requiring that the river be allowed to attain the channel width, depth, meander pattern, and slope associated with its equilibrium condition.

(b) **Flood Hazard Area Standard.** The following are the standards applicable to development located in the flood hazard area that is eligible for authorization under this General Permit. Development not qualifying for authorization under this General Permit will need to meet additional standards as outlined in the Rule and will require an Individual Permit.

- (1) Pursuant to the requirements of this subsection, the applicant must demonstrate that development:
 - (A) Will not adversely affect public safety by increasing flood elevations, flood velocities, or decreasing flood storage volume; and
 - (B) Will not be in violation of the NFIP Floodplain Management Criteria in 44 C.F.R. § 60.3.
- (2) No Adverse Impact (NAI) Standard – Compensatory Storage in Flood Fringe – Except as provided in Section VI(b)(2)(A), a development shall not decrease flood fringe storage capacity. Development that displaces floodwater storage in the flood fringe must provide compensatory storage to offset the impacts of the proposal, when the development will cause an increase or will contribute incrementally to an increase in the horizontal extent and level of flood waters during peak flows up to and including the base flood discharge.

(A) Exceptions:

- (i) The NAI requirement for compensatory storage may be waived by the Secretary for designs that have no more than a minimal effect on floodwater storage and will not divert floodwaters onto adjacent property. Examples of designs that have a minimal effect on floodwater storage include open foundation designs, utility work that is largely below grade, and minor above ground improvements such as fences or poles that minimally displace or divert floodwaters.
- (ii) The NAI requirement for compensatory storage shall be waived for replacement structures provided:
 - (1) That there is no increase in the structure's footprint, and
 - (2) The proposal complies with the other requirements in this subsection.
- (iii) The NAI requirement for compensatory storage is waived for replacement structures relocated to a less hazardous location within the flood fringe provided that there is no increase in the structure's footprint.

- (3) Reasonably Safe From Flooding Requirements - Development must comply with the following requirements, as appropriate, and shall be presumed to be reasonably safe from flooding if it complies with the following:
- (A) Development must be designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (B) Development must be constructed with materials resistant to flood damage;
 - (C) Development must be constructed using methods and practices that minimize flood damage;
 - (D) Development must be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
 - (E) Development must be constructed with adequate drainage to reduce exposure to flood hazards; and
 - (F) Fuel storage tanks (as needed to serve buildings in the flood hazard area) must be located a minimum of one foot above the base flood elevation and be securely anchored to prevent flotation, and protected from flood forces and debris; or storage tanks may be placed above or below ground, if securely anchored and certified by a qualified professional that the design is watertight and will resist buoyancy, scour and uplift forces, and that the fuel storage tank vent is located at least one foot above the base flood elevation.
- (4) Accessory structures need not be elevated to the base flood elevation, provided the structure meets the Reasonably Safe from Flooding Standard (Section VI(b)(3)). In addition, accessory structures shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters and have openings in accordance with the following¹¹:
- (A) Two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - (B) The bottom of all openings shall be no higher than one foot above grade.
 - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (5) Trailers and vehicles. Recreational vehicles, equipment and boat trailers, portable toilets, and construction trailers placed in the flood hazard area must:
- (A) Be on-site for fewer than 180 consecutive days, or

¹¹ Alternative openings certified by a registered professional engineer or architect in accordance with FEMA [Technical Bulletin 1 *Openings in Foundation Walls and walls of Enclosures*](#)

(B) Be currently, registered, licensed, and ready for highway use.

VII. Individual Flood Hazard Area and River Corridor Permits

(a) An individual flood hazard area & river corridor permit shall be required for any activity that is:

- (1) Not an Exempt Activity (as listed in Section IV above); and
- (2) Not otherwise authorized in Section V.

(b) The Secretary may require any person proposing an activity that may otherwise be authorized under this General Permit to apply for an individual permit. The Secretary may require an individual permit if any one of the following applies:

- (1) In consideration of each of the following factors:
 - (A) The current physical condition and flood loss history of the flood hazard area or river corridor within which the activity would occur;
 - (B) The size and scope of the applicant's or permittee's activity;
 - (C) The quantity and nature of the activity; and
 - (D) Other relevant factors.
- (2) The permittee is not in compliance with the terms and conditions of this General Permit.
- (3) The application does not qualify for coverage under this General Permit.
- (4) A change has occurred in the availability of demonstrated technology or practices for the activity.
- (5) NFIP requirements have been adopted that conflict with one or more provisions of this General Permit.

VIII. General Conditions

(a) **Recording in Land Records.**

If an authorization under the general permit is valid for an indefinite term, a permittee shall record an authorization for an activity under Section V(b)(1)(D), (E), (G), (H), (I), (J) or Section V(c)(1)(A), (B), (C), or (D) in the local land records within 30 days of the issuance of the authorization. A copy of the notice form that must be filed in the land records is available from the Secretary. A copy of the recording shall be provided to the Secretary within 30 days of the permittee's receipt of a copy of the recording from the local land records.

(b) **Access to Property.**

By conducting any activity authorized under this General Permit, the permittee agrees to allow Agency representatives access to the property covered by this General Permit, at reasonable times and upon presentation of credentials, for the purpose of ascertaining compliance with the Vermont Flood Hazard Area & River Corridor Rule and this General Permit. This General Permit does not grant the permittee the right to enter onto any property not owned by the permittee.

(c) **Authorization for Substantial Changes.**

All activity shall be completed and maintained in accordance with the terms and conditions of this General Permit and any authorizations thereunder. No material or substantial changes shall be made to a non-reported project such that it would only qualify as a reported project without the prior written approval of the Secretary. A permittee shall notify the Secretary of any planned changes to an authorized reported activity. The Secretary may require the permittee to submit additional information on any proposed changes. The Secretary will notify the permittee if, based on the proposed changes to the authorized activity, a revised application for an individual permit must be submitted.

(d) **Remedial Measures.**

The Secretary maintains continuing jurisdiction over an activity authorized under this General Permit and may at any time order remedial measures if it appears the activity is not in compliance with this General Permit or an authorization issued under this General Permit.

(e) **Compliance with other Regulations.**

This General Permit does not relieve the permittee of the responsibility to comply with any other applicable federal, state, and local laws, regulations, and permits.

(f) **Legal Responsibilities for Damages.**

The Secretary, by issuing this General Permit and any authorization hereunder, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whomever suffered arising out of the approved activity.

(g) **Revocation.**

The Secretary may, after notice and opportunity for a hearing, revoke or suspend, in whole or in part, an authorization under this General Permit for cause, including:

- (1) Violation of the terms or conditions of this General Permit;
- (2) Obtaining authorization by misrepresentation or failure to fully disclose all relevant facts;
- (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized activity.

(h) **Requiring Coverage under this General Permit.**

The Secretary may require that an activity for which issuance or reissuance of an individual permit is sought be subject to this General Permit if the Secretary finds that the activity is eligible for coverage under and will meet the terms and conditions of this General Permit and that authorization under this General Permit will meet the requirements of the Flood Hazard Area & River Corridor Rule.

(i) **Duty to Comply; Enforcement.**

The permittee shall comply with all terms and conditions of this General Permit and all authorizations for activities issued hereunder. Any permit noncompliance constitutes a violation of the Flood Hazard Area & River Corridor Rule and may be cause for an enforcement action and/or revocation and reissuance, modification, or termination of the permittee's authorization under this General Permit.

(j) **Continuation of Expired General Permit.**

If this General Permit is not reissued or replaced prior to its expiration date, it will be administrative-ly 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 General Permit until the earliest of the following:

- (1) Reissuance or replacement of this General Permit, at which time the permittee must comply with the conditions of the new permit to maintain authorization for the activity; or
- (2) Issuance of an individual permit for the designated activity; or
- (3) A formal decision by the Secretary not to reissue this General Permit, at which time the permittee must seek coverage under an alternative general permit or individual permit.

(k) **Transfer of Authorization.**

An authorization for an activity under this General Permit may be transferred provided that a notice of transfer is submitted to the Secretary no later than five days prior to the transfer and the notice includes the following:

- (1) The name, mailing address, and contact information of the present permittee;
- (2) The name, mailing address, and contact information of the prospective permittee;
- (3) The proposed date of transfer; and
- (4) A statement signed by the prospective permittee, stating that the prospective permittee has read and is familiar with the terms and conditions of the permit and the authorization and agrees to comply with the permit and authorization.

(l) **Modification of this General Permit.**

After notice and opportunity for a public meeting, this permit may be modified in accordance with §29-503 of the Flood Hazard Area & River Corridor Rule.

(m) **Limitations.**

This General Permit conveys no vested rights or exclusive privileges. This General Permit conveys no title to land nor authorizes any injury to public or private property.

IX. Appeals

(a) Renewable Energy Projects – Right to Appeal to Public Service Board.

If this decision relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of this decision must be filed with the Vermont Public Service Board pursuant to 10 V.S.A. § 8506. This section does not apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under this section must be filed with the Clerk of the Public Service Board within 30 days of the date of this decision; the appellant must file with the Clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2), and shall also serve a copy of the Notice of Appeal on the Vermont Department of Public Service. For further information, see the Rules and General Orders of the Public Service Board, available on line at www.psb.vermont.gov. The address for the Public Service Board is 112 State Street, Montpelier, Vermont, 05620-2701 (Tel. # 802-828-2358).

(b) All Other Projects – Right to Appeal to the Environmental Division of the Superior Court.

Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or the appellant's attorney. In addition, the appeal must give the address or location and description of the property, project, or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Division is: 32 Cherry St., 2nd Floor, Suite 303; Burlington, VT 05401 (Tel. # 802-828-1660).

X. Term

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

Dated at Montpelier, Vermont this ____ day of XXXX, 2016

Alyssa Schuren, Commissioner
Department of Environmental Conservation

BY:

Pete LaFlamme, Director
Watershed Management Division