

VT DEC Chapter 22 Vermont Stormwater Permitting Rule

Detail of Revisions Following Public Comment, January 8, 2019

<b>Section</b>	<b>Comment</b>	<b>Source</b>	<b>Specific Change</b>	<b>Explanation</b>
22-105(a)(4)	Comment 105	VSAA	Added "For the purposes of this subsection, a "dam" shall have the meaning set forth in 10 V.S.A. § 1080(6)"	Defined "dam" to be consistent with 10 V.S.A. § 1080(6)
22-105(a)(5)	Comment 50	CLF	Added "one of the following transition exemptions applies"	Clarified transition language for this category of exemptions
22-106(7)	Comment 51	CLF	Deleted "Compliance with the standards and best management practices set forth in this Rule will ensure that a new source or new discharger will not cause or contribute to a violation of water quality standards."	Removed sentence regarding "ensuring compliance" with water quality standards
22-107(b)(6)	Comment 108	VSAA	Added "that will result in earth disturbance of one acre or greater in total"	Clarified threshold for requiring construction permit
22-107(c)(1)(A)	Internal	DEC	Separated "wasteload" into two words, "waste load"	Word revision for consistency within Rule
22-107(c)(1)(B)	Internal	DEC	Added "or the Secretary"	Added reference to the Secretary
22-110	Comment 112	VSAA	Added "and with the subsection of 10 V.S.A. § 1264(c) pursuant to which such permit was issued"	Revised effect of a permit to include compliance with 10 V.S.A. § 1264
22-111(a)	Internal	DEC	Added "Management"	Added Management to "Vermont Stormwater Management Manual"
22-111(a)	Internal	DEC	Capitalized "Rule"	Revision for consistency within Rule
22-111(b)	Internal	DEC	Capitalized "Rule"	Revision for consistency within Rule
22-111(b)	Comments 44 & 54	CLF	Deleted "whether the waste load allocation for developed lands in any applicable TMDL is estimated to be met through existing regulatory programs." and	Revised criteria from tactical basin planning which Secretary shall use in establishing watershed-specific priorities

			<p>"If the Secretary determines that additional stormwater-related pollutant reductions are needed from developed lands to implement the waste load allocation of a TMDL, either through changes to existing regulatory programs or through designation of additional impervious surfaces through Section 22-107(c)(1) (applicability; permit required), the Secretary shall include in the basin plan a description of the plan and timeline for making designations under Section 22-107(c)(1) (applicability; permit required) or adjusting existing regulatory programs, or both.";</p> <p>Added "the following criteria, which the Secretary shall consider in establishing watershed-specific priorities for the management of stormwater runoff:</p> <ul style="list-style-type: none"><li>(1) Whether the waste load allocation for developed lands in any applicable TMDL is estimated to be met through existing regulatory programs; and</li><li>(2) Whether additional stormwater-related pollutant reductions are needed from developed lands to achieve a waste load allocation or to meet the Vermont Water Quality Standards."</li></ul>	
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22-111(c)	Comments 44 & 54	CLF	Deleted subsection (c)	Removed the enumerated basin plan data as criteria which the Secretary may use to establish watershed-specific priorities (replaced with subsection (b))
22-112	Comment 39	City of Burlington	Added "§ 22-112. Vermont Groundwater Protection Rule and Strategy Stormwater that infiltrates to groundwater shall comply with the Vermont Groundwater Protection Rule and Strategy."	Added requirement to comply with Groundwater Protection Rule and Strategy
22-201(45)(A)	Comment 9	CCRPC	Added "within the meaning of section 1322 of the Clean Water Act"	Revised to include reference to Section 1322 of the Clean Water Act
22-302(b)(3)(A)(ii)	Internal	DEC	Added "multi-lot"; deleted "n existing housing or commercial"	Revised to clarify requirements related to multi-lot projects
22-302(b)(5)(A)	Comment 115	VSAA	Deleted "The activity is not prohibited by the requirements of a municipal ordinance that applies to the location where the activity is proposed to be located"	Deleted requirement for a certification regarding consistency with the applicable municipal ordinance, to be consistent with Groundwater Protection Rule and Strategy
22-302(b)(5)	Internal	DEC	Re-lettered items "B" and "C" in original list	Renumbering due to deletion of first item in list.
22-304(e)	Internal	DEC	Deleted space after "consider:"	Removal of extra space
22-304(f)	Comment 42	CLF	Added " for the discharges described in subsection (e)"	Clarified requirements for coverage under a General Permit if no notice of intent is submitted
22-310(e)(11)	Comment 73	CLF	Added "where"	Revised for clarity
22-501(a)	Internal	DEC	Deleted (5); Replaced with (6)	Corrected cross references
22-701(a)	Comment 86	CLF	Deleted (6); Replaced with (7)	Corrected cross reference
22-801(a)	Comment 88	CLF	Deleted (8); Replaced with (9)	Corrected cross references

22-801(e)(2)	Comment 92	CLF	Added "a precipitation-related discharge of manure, litter, or process wastewater"	Clarified language re which discharges are excepted from permit requirements
22-901(b)	Internal	DEC	Capitalized "Subchapter"	Revision for consistency within Rule
22-901(b)(1)(A)	Internal	DEC	added "and"; deleted commas, spaces, and "and for redevelopment"	Moved redevelopment to new section for clarification
22-901(b)(1)(B)	Internal	DEC	added "For redevelopment, the project shall satisfy the redevelopment standard of the Vermont Stormwater Management Manual, unless the impervious surface being redeveloped was constructed as new development after 2002 and was previously subject to the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual, in which case the redevelopment project shall be treated as new development and shall satisfy the requirements of the Vermont Stormwater Management Manual for new development. Redevelopment on sites with impervious surfaces of three or more acres requiring permit coverage under Section 22-107(b)(4) (applicability; permit required) shall comply with the applicable requirements of subdivision (1)(D) of this subsection, but in no case shall redevelopment projects involving such	Revised to make consistent with 22-901(b)(3)(B)

			sites meet less than the redevelopment standard of the Vermont Stormwater Management Manual."	
22-901(b)(1)(B)	Internal	DEC	Renumbered subsection from "B" to "C"; deleted "C" and replaced with "D"; added a space between sentences	Renumbering based on list addition; corrected cross reference
22-901(b)(1)(C)	Internal	DEC	Renumbered subsection from "C" to "D"; replaced "subsection" with "subdivision"	Renumbering based on list addition; word change for consistency within Rule
22-901(b)(1)(D)	Internal	DEC	Renumbered subsection from "D" to "E"	Renumbering based on list addition
22-901(b)(3)(B)	Internal	DEC	Deleted "s" from subdivisions; deleted reference to (E)	Corrected cross reference
22-901(b)(3)(D)(i)	Internal	DEC	Separated "wasteload" into two words, "waste load"	Word revision for consistency within Rule
22-901(b)(3)(D)(iii)	Internal	DEC	Deleted "such"; inserted "to the extent"; deleted "redevelopment section of the"; added space between "protection" and "standard"	Clarified language regarding percentage of water quality volume; typo correction
22-901(b)(4)	Internal	DEC	added "(4 ) For projects subject to this subsection 22-901(b) (Permitting standards), compliance with the redevelopment standard and the percentage of water quality volume achieved will be determined on an average basis for a site by multiplying the percentage of the water quality volume provided for a given portion of a site by the percentage of the site impervious treated by that volume. No portions of a site may achieve more than 100%	Added subsection to clarify how percentage of water quality volume is determined

			of the water quality volume for purposes of determining the average water quality volume achieved."	
22-901(c)(1)	Comments 13 & 98	CCRPC & GF	Deleted "On or before January 1, 2018"; Added "Within 120 days of the adoption of this Rule the Secretary shall"	Clarified date 3-acre general permit is due
22-901(c)(3)(A)	Internal	DEC	Added "(c)"; deleted "by the following date"; added "as follows"	Revised language to clarify applicability of standards to future 3-acre sites
22-901(c)(3)(A)(i)	Internal	DEC	Deleted "located"; added "of three acres or more" and "coverage shall be obtained"	Revised language to clarify applicability of standards to future 3-acre sites
22-901(c)(3)(A)(ii)	Internal	DEC	Added new subsection: "(ii) for sites within the Lake Champlain and Lake Memphremagog watersheds with impervious surface of three or more acres following, but not on or prior to, October 1, 2023 , coverage shall be obtained for the entire site prior to constructing impervious surface that results in impervious surface of three or more acres"	Revised language to clarify applicability of standards to future 3-acre sites
22-901(c)(3)(A)(iii)	Internal	DEC	Deleted "located"; added "of three acres or more" and "coverage shall be obtained"	Revised language to clarify applicability of standards to future 3-acre sites
22-901(c)(3)(A)(iv)	Internal	DEC	Added new subsection: "(iv) for sites within all other watersheds of the State with impervious surface of three or more acres following, but not on or prior to, October 1,	Revised language to clarify applicability of standards to future 3-acre sites

			2033, coverage shall be obtained for the entire site prior to constructing impervious surface that results in impervious surface of three or more acres."	
22-901(c)(3)(C)	Comment 107	VSAA	<p>Rewritten to provide that a discharge subject to the three-acre general permit comply with applicable permitting standards under subsection (b) of this section "except that the following discharges of stormwater runoff shall comply with the technical standards established under the general permit, rather than the standards established under subsection (b) of this section:</p> <p>(i) stormwater runoff from roads and other linear transportation facilities which does not commingle with stormwater runoff from adjoining or adjacent impervious surfaces that require permit coverage as part of a project that includes the subject road; and</p> <p>(ii) stormwater runoff from isolated impervious surfaces with a footprint of no more than 400 square feet where the impervious surface is separated from other impervious surface, with the exception of impervious surface associated with roads and other linear transportation facilities,</p>	Added exception for small, isolated impervious

			by a distance of at least 50 linear feet."	
22-901(d)(1)	Internal	DEC	Deleted "14"; Replaced with "30"	Revised land record recording requirement to be consistent with other programs
22-901(d)(4)	Comment 124	VSAA	Added "as soon as possible in advance" and "and shall obtain any required amendment, reissuance, or permit coverage"; deleted "at least 90 days"	Revised submittal date requirement for projects undergoing changes
22-901(d)(5)(B)	Internal	DEC	Deleted comma	Punctuation correction
22-1001(c)(2)	Internal	DEC	Added "Management"	Added Management to "Vermont Stormwater Management Manual"
22-1001(c)(4)(C)	Comment 19	CCRPC	Added "existing"	Revised to clarify the subsection applies to existing land uses
22-1001(c)(4)(G)	Comment 21	CCRPC	Added ", which shall not preclude implementation of passive reforestation within any wetland or buffer"	Revised to clarify the term "wetlands" does not include man-made structures constructed in uplands
22-1002(b)(1)	Internal	DEC	Added "impact", "permitting", and " (§ 22-901(b))"	Clarified language on impact fees
22-1002(b)(2)	Internal	DEC	Added "an applicant is"; deleted "and"; capitalized "If"	Revised language re applicant and broke long sentence into two
22-1002(b)(4)	Internal	DEC	Added "impact"	Clarified language on impact fees
22-1002(b)(4)(A)	Internal	DEC	Added ", the impact fee shall be" and "for which compliance with the applicable standards is not achieved"	Clarified fee language
22-1002(b)(4)(B)	Comment 29	City of South Burlington	Added "For"; deleted "Where compliance with the redevelopment, groundwater recharge, water quality treatment, or channel protection standards of the Vermont Stormwater Management Manual is required, but"	Clarified language

			not achieved under Sections 22-901(b)(2) and (3) (operational permitting standards; impaired, no TMDL or with TMDL) for"; deleted "3" and replaced with "4"; deleted "that" and replaced with "for which"; deleted "for"; added ", the impact fee shall be"	
22-1002(b)(4)(B)(i)	Comment 29	City of South Burlington	Deleted "\$25,000 per acre of impervious surface calculated based on the area of impervious surface for which water quality volume treatment is not provided but where treatment is required under the redevelopment standard"; replaced with "\$25,000 per acre of impervious surface multiplied by the difference between the required water quality volume and the average water quality volume achieved"	Clarified language re redevelopment fee
22-1002(b)(4)(B)(ii)	Comment 29	City of South Burlington	Added "for which water quality treatment is required by the permitting standard but not achieved."; capitalized "For"	Clarified impact fee language
22-1002(b)(4)(B)(iii)	Comment 29	City of South Burlington	Added "for which channel protection is required by the permitting standard but not achieved."	Clarified language re channel protection volume fee
22-1002(c)(1)(A)	Internal	DEC	Deleted "than 85%"; added "85% or"	Revised percentage language to include 85% and for consistency
22-1002(c)(1)(B)	Internal	DEC	Deleted "such", "than 60%" and "site is in compliance with the water quality treatment standard of the Vermont	Clarified language

			Stormwater Management Manual"; added "to the extent", "60% or", "of the", and "water quality volume is achieved"	
22-1002(c)(1)(D)	Internal	DEC	Deleted "previously permitted" and "than 85%"; added "85% or"	Removed improper reference to "previously permitted"; revised percentage language to include 85% and for consistency
22-1002(c)(1)(E)	Internal	DEC	Deleted "previously permitted", "such that more than 60% of the site is in compliance with the water quality treatment standard", and such; added "to the extent" and "that 60% or more of the water quality volume is achieved"	Removed improper reference to "previously permitted"; clarified redevelopment language; revised percentage language to include 60% and for consistency
22-1002(c)(3)(A)	Internal	DEC	Deleted "\$25,000 per acre of impervious surface calculated based on the area of impervious surface for which water quality volume treatment is provided but where treatment is not required under the redevelopment standard"; Replaced with "\$25,000 per acre of impervious surface multiplied by the difference between the required water quality volume and the average water quality volume achieved"	Clarified language re redevelopment fee
22-1002(c)(3)(B)	Internal	DEC	Added period after "surface"; Capitalized "For"	Clarified language re: groundwater recharge standard
22-1003(b)(1)	Internal	DEC	Deleted "previously permitted", "not previously permitted", and "based on the area of impervious surface for	Removed improper reference to "previously permitted"; Clarified language regarding standards

			which water quality volume treatment is provided but where treatment is not required under the redevelopment standard"	
22-1003(f)(1)	Internal	DEC	Deleted "calculated based on the area of impervious surface for which water quality volume treatment is provided"; Replaced with "multiplied by the percentage of water quality volume achieved that exceeds 50% of the water quality volume"	Clarified language regarding determining percentage of water quality volume
22-1003(f)(2)	Internal	DEC	Added period after "surface"; Capitalized "For"	Clarified language re: groundwater recharge standard
22-1101(c)(2)	Internal	DEC	Capitalized "Subchapter"	Revision for consistency within Rule
22-1201(b)(15)(A)	Internal	DEC	Added "an aggrieved person shall not appeal this permit, or, in the case of a general permit, an authorization under such general permit, unless the person submitted to the Secretary a written comment during the applicable public comment period or an oral comment at the public meeting conducted by the Secretary. Absent a determination of the Environmental judge to the contrary, an aggrieved person may only appeal issues related to the person's comments to the Secretary as prescribed by 10 V.S.A. § 8504(d)(2)."	Added language regarding participation in public comment period related to appeals, re Act 150 (2016)
22-1201(b)(15)(A)	Internal	DEC	Added new subsection (B); Added "Pursuant to 10 V.S.A. Chapter 220 and the Vermont Rules for	New subsection to follow addition of participation language

			Environmental Court Proceedings,"; Replaced "B" with "C"	
22-1201(b)(15)(B)	Internal	DEC	Re-lettered (B) as (C) in list	Renumbering based on list addition
Numerous	Internal/ Comments 75, 91, 92	DEC/CLF	Removed all references to animal feeding operations and Subchapter 8 (Concentrated Animal Feeding Operations)	Agency has decided to address CAFOs in a separate, future rule.