

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

FACT SHEET

**VPDES GENERAL PERMIT 3-9014 (2023) FOR STORMWATER DISCHARGES FROM
REGULATED SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)
AND CERTAIN DEVELOPED LANDS**

I. Program Background

The Vermont Agency of Natural Resources (Agency) is proposing to reissue the Vermont Pollutant Discharge Elimination System (VPDES) general permit for the discharge of stormwater from regulated small municipal separate storm sewer systems (MS4s) to waters of the State, referred to as the “MS4 General Permit.” The reissued MS4 General Permit will also provide permit coverage for stormwater discharges from, to the extent of the traditional municipalities’ boundaries, roads requiring permit coverage under 10 V.S.A. § 1264(c)(6), municipally owned or controlled impervious surfaces of three acres or greater requiring permit coverage under 10 V.S.A. § 1264(c)(7), and developed lands for which those municipalities have assumed full legal responsibility. Upon its effective date, the new MS4 General Permit will replace the existing MS4 General Permit issued in 2018.

The MS4 General Permit is issued pursuant to the Secretary’s federally-approved authority to administer a permitting program consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES).

The MS4 General Permit meets the requirements of a Two-Step General Permit in accordance with the NPDES MS4 GP Remand Rule, 40 C.F.R. § 122.28(d). In compliance with the Rule, applicants will submit an Notice of Intent (NOI) and complete Stormwater Management Program (SWMP) for review, public notice, and public comment.

The MS4 General Permit will apply to the following entities: Burlington, Colchester, Essex, Essex Junction, Milton, Rutland Town, Shelburne, St. Albans City, St. Albans Town, South Burlington, Williston, Winooski, the University of Vermont, and the Burlington International Airport. The MS4 General Permit may also provide coverage for any additional small MS4s designated by the Secretary pursuant to the “Procedure for Designation of Regulated Small MS4s” (dated May 16, 2016).

II. General Permit Authority

The MS4 General Permit is issued in accordance with the following state and federal laws and rules: the Vermont Water Pollution Control statute, 10 V.S.A. Chapter 47, including §§ 1258, 1259, and 1264; the Vermont Water Pollution Control Permit Regulations (Environmental Protection Rules, Chapter 13), including the rule governing general permits in Section 13.12; the

federal Clean Water Act (CWA), as amended, 33 U.S.C.A. § 1251 *et seq.*, including 33 U.S.C.A. § 1342(p); and regulations of the United States Environmental Protection Agency (EPA), including 40 C.F.R. Part 122, including § 122.34.

III. Purpose of the Draft Permit

The purpose of the MS4 General Permit is to reduce the discharge of pollutant from MS4s to the maximum extent practicable (MEP); protect water quality; and satisfy the appropriate water quality requirements of the CWA and state law, including implementation of total maximum daily loads (TMDLs) for stormwater-impaired waters and phosphorus-impaired Lake Champlain.

In addition to implementing the six minimum control measures (described further below), the MS4 General Permit requires permittees to implement Flow Restoration Plans (FRPs) for stormwater-impaired waters, and to implement Phosphorus Control Plans (PCPs) and Municipal Road Standards to satisfy the requirements of the Lake Champlain TMDLs and the Department's requirements in the Lake Champlain TMDL Phase I Implementation Plan (2016).

IV. Permit Organization and Changes to the Draft Permit

The MS4 General Permit includes the following required permit elements: Part 1, Purpose and Authority; Part 2, Coverage Under this Permit; Part 3, Application Requirements; Part 4, Discharge Requirements; Part 9, Monitoring, Recordkeeping, and Reporting; Part 10, Standard Permit Conditions; Part 11, Right to Appeal to the Environmental Court; Part 12, Definitions; and Part 13, Effective Date and Term of General Permit.

Part 5 is the Stormwater Management Program (SWMP). The SWMP is the comprehensive plan for all stormwater discharges regulated under the MS4 General Permit and shall include the information required, as necessary, under Part 3; the information required under Part 4 to address discharges to impaired waters; the required elements under the six minimum control measures described in Part 6; the information required under Part 7 for stormwater systems for which the municipality has assumed full legal responsibility; and the FRP and PCP developed in accordance with Part 8.

Part 6 is the Minimum Control Measures. Permittees must develop, implement, and enforce the following measures to reduce the discharge of pollutants from the regulated small MS4 to the maximum extent practicable (MEP): 1) a public education and outreach campaign on stormwater impacts, 2) a public involvement and participation program, 3) an illicit discharge detection and elimination program, 4) a construction site stormwater runoff control program, 5) a post-construction stormwater management program for new and redevelopment, and 6) a pollution prevention and good housekeeping for municipal operations program.

Minimum Control Measure 4, Construction Site Stormwater Runoff Control has been updated to include requirements that the permittee develop and implement procedures for construction site plan review, for receipt and consideration of comments submitted by the public, and for site inspection and enforcement of erosion and sediment control measures.

Part 7 is for Previously Permitted Stormwater Systems. Part 7 allows a permittee under the MS4 General Permit to incorporate previously permitted systems, for which the permittee has “full legal responsibility,” under the permittee’s MS4 General Permit authorization.

This part has been updated to allow MS4s to receive phosphorus credit towards Phosphorus Control Plan (PCP) implementation when an MS4 is a co-permittee on an Individual Stormwater Operational Permit issued by the Agency.

Part 8 is the TMDL Implementation requirements. Part 8 applies to permittees in the Lake Champlain watershed and the stormwater-impaired watersheds. Part 8 includes the stormwater-impaired waters Flow Restoration Plan (FRP) requirements included in the previously issued MS4 permit, which the permittees in stormwater-impaired waters must continue to implement in accordance with their previously approved compliance schedules. As part of the requirements in Part 8, permittees must also continue to implement Phosphorus Control Plans (PCPs) for their owned and controlled developed lands within the Lake Champlain watershed. Each PCP shall achieve a level of phosphorus reduction no less than the percent reduction targets for the associated TMDL lake segment. This part includes a compliance schedule for PCP implementation not to exceed 20 years from the issuance date of the Lake Champlain TMDLs.

This part has been updated to remove the requirement for MS4s to conduct or fund a stormwater flow monitoring program in stormwater impaired watersheds. Flow monitoring was originally considered by the Waters Resource Board to be an effective way to monitor progress on FRP implementation and inform plan modifications. In the past permit term, MS4 permittees funded a flow monitoring program. Based on the variable nature of flow, the Agency has determined that monitoring flow is not the most effective way to determine progress in meeting the FRPs. The Stormwater TMDL targets are based on flow duration curves, which require 6-10 years of flow monitoring, post BMP installation, to see change. The Agency has decided to rely on stormwater modeling and biomonitoring to assess the effectiveness of the plans going forward.

As part of the PCP requirements, traditional municipalities (i.e. those that are not non-traditional MS4s) shall implement the Municipal Road Standards developed for the Vermont Municipal Roads General Permit (MRGP). The MRGP was developed to fulfill the Lake Champlain TMDL Phase I Implementation Plan commitment and the Act 64 (2015) legislative requirement (10 V.S.A § 1264(g)(2)). Under the MRGP, Vermont municipalities are required to bring all hydrologically connected municipal roads up to permit standards. The traditional municipalities will fulfill this requirement through the MS4 General Permit.

V. Public Notice and Comment Period

The Secretary is providing a 42-day public comment period on the draft MS4 General Permit from June 2, 2023 through July 18, 2023. Interested parties may submit written comments on the draft MS4 General Permit to the Department at the address given below by no later than 4:30 p.m. on July 18, 2023. All relevant comments will be considered by the Secretary in finalizing the MS4 General Permit.

A public meeting will be held virtually on July 11th from 10 am to 12 pm, via Microsoft Teams. At the meeting, Department staff will be available to answer questions concerning the draft MS4 General Permit.

A copy of the MS4 General Permit and related documents may be downloaded from:
<http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees>

Hard copies of the MS4 General Permit and related documents may be obtained upon request. Written comments should be emailed to Christy.witters@vermont.gov.

Public notice of NOIs, SWMPs, and authorizations under the final MS4 General Permit will comply with the Type 1 public noticing requirements under 10 V.S.A. Chapter 170 and the rules adopted thereunder and further information about providing comments and requesting public meetings will be provided once a permittee has submitted an NOI.