

Guidance for MS4 permittees to incorporate facilities with expired state stormwater permits into their authorizations under the MS4 General Permit

The MS4 General Permit (#3-9014) requires that municipalities with small municipal separate storm sewer systems that discharge to stormwater impaired streams prepare Flow Restoration Plans (FRP) to meet the stormwater TMDLs and Water Quality Standards for those streams. As part of this process, municipalities must, by April 1, 2014, submit to the Secretary plans for addressing those facilities with expired state stormwater permits discharging to their MS4 systems. They may either request that the Secretary exercise Residual Designation Authority (RDA) and require NPDES permits for these facilities, OR they may incorporate (“take over”) the expired facilities into their authorizations under the MS4 General Permit. A municipality’s plan for addressing the expired permits must ensure that all permitted facilities demonstrate compliance with the existing expired permit, at a minimum, and ensure that these facilities will be incorporated into the FRP.

A municipality may incorporate a facility with an expired permit into its authorization under the MS4 General Permit by updating its approved Stormwater Management Program (SWMP) in accordance with Part IV.J.2 of the MS4 General Permit. Part IV. J.2 of the permit, requires that the MS4 permittee notify the Secretary, in writing, of any changes adding components, controls, or requirements to the SWMP. The Stormwater Program shall prepare an MS4 Permit Amendment Form for the MS4 permittee to complete. The Program will review a completed form and, if the Program approves the changes, amend the municipality’s authorization to discharge under the MS4 General Permit. The Program will provide notice of the Amendment Form and a public comment period of 30 days.

Facilities with expired permits may be incorporated into an authorization under the MS4 General Permit if, at a minimum, the system meets the standards of the expired permit. The municipality may also require that the system upgrade to comply with the 2002 Vermont Stormwater Management Manual.

A municipality shall add a new section in its SWMP for all expired state stormwater permits that it is taking over. The municipality shall list the project name and reference the plans for the previously permitted facility. The municipality shall report on the annual inspection and maintenance of the facility in the municipality’s Annual Report, under Minimum Control Measure 6, Good Housekeeping and Pollution Prevention.

The Stormwater Program shall change the status of the expired stormwater permits in the stormwater database to “Superseded by 3-9014” to identify those permits that the municipality has taken over.