

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

FACT SHEET

**VERMONT POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES)
GENERAL PERMIT 3-9040
FOR STORMWATER DISCHARGES FROM MUNICIPAL ROADS (MRGP)**

I. Program Background

The Vermont Agency of Natural Resources (Agency) is proposing to issue a National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from all municipal roads including Class 1-4 town highways, and municipal stormwater infrastructure associated with municipal roads, within and outside the municipal right-of-way.

The draft permit is referred to as the Municipal Roads General Permit (MRGP). The MRGP is being issued pursuant Vermont's Act 64 (2015), known as the Vermont Clean Water Act, which requires the Agency to issue a permit to address stormwater runoff from municipal roads. In order to meet the requirements of the Lake Champlain Phosphorus total maximum daily loads (TMDLs) and to ensure water quality protection across the entire State, the permit requires municipalities to inventory their roads, and develop Road Stormwater Management Plans (RSWMPs) to address runoff and bring all municipal roads up to the standards established in the permit.

The development and implementation of the MRGP is the fulfilment of a critical *Lake Champlain TMDL Phase 1 Implementation Plan* (2016) commitment and Act 64 (2015) legislative requirement. Pursuant to the *TMDL Phase 1 Implementation Plan*, standards were developed for various road types, and the required standards will apply to all hydrologically-connected road segments. The required best management practices (BMPs) were developed based on best available local and national information, and are intended to achieve requisite improvements to water quality.

The Agency formed a MRGP Technical Team composed of scientists and engineers from both ANR and the Vermont Agency of Transportation (VTrans). The Team reviewed the existing *VTrans Road and Bridge Standards* (2013), the *VTrans Better Backroads Practice Manual* (2009), UVM road research of individual BMP effectiveness, and literature review of road BMPs being used across the country to develop those BMPs included in the MRGP. The MRGP principles are based upon stormwater disconnection and infiltration, stable conveyances, properly sized and installed drainage culverts, and turning drainage outlets away from water resources.

Municipalities will be required to inventory all of their hydrologically-connected road segments by December 2020 to establish baseline road conditions. The Road Erosion Inventory (REI) results “score” each 100-meter road segment into one of three categories: *Fully Meets*, *Partially Meets*, and *Does Not Meet* MRGP standards. The REI template is based on evaluating whether necessary road BMPs (standards) are in place and assessing erosion levels.

During the development of the Lake Champlain TMDLs, EPA assumed a 50% phosphorus (P) reduction would be achieved on 65-100% of hydrologically connected roads, depending the lake segment, which roughly corresponds to the percent of road miles that are municipally controlled and will be subject to the MRGP standards. Phosphorus load reductions have been assigned to each of the three MRGP compliance categories, based upon the UVM field research of Dr. Beverley Wemple. The *Partially Meets* condition corresponds with a 50% reduction in P from *Does Not Meet* levels, while *Fully Meets* corresponds with an 80% P reduction from *Does Not Meet* conditions. The *Does Not Meet* condition will not be assigned any P reductions. Municipalities will be required to bring 100% of their hydrologically connected roads to the *Fully Meets* condition by January 1, 2037.

Municipalities are required to develop Implementation Plans and Schedules to ensure that BMPs are being applied systematically on high priority road segments. Each year municipalities will be required to implement a minimum number of road segment upgrades to keep on track to full implementation of practices and in compliance with the MRGP. Additionally, all connected road segments *Not Meeting* MRGP standards on slopes greater than 10%, will be required to meet standards by December 2025. The Agency will be monitoring progress on road BMP implementation through both MRGP annual reporting requirements and through REI assessments every 5 years. Towns will also be held accountable for the maintenance of BMPs through annual reporting and regular REIs.

High priority locations for BMP implementation will be incorporated into the Agency’s watershed project database and sub-basin tactical plans, by lake segment, as part of the Phase 2 Implementation Plans. The tactical basin plans will present best available estimates of phosphorus reductions by allocation category and through phosphorus tracking as municipal roads are brought up to MRGP standards.

II. General Permit Authority

This 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 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 but not limited to 40 CFR Part 122.

III. Purpose of the Draft Permit

The MRGP is issued pursuant to 10 V.S.A. Chapter 47 §1264, which requires the Secretary to issue a general permit for discharges of regulated stormwater from municipal roads. This permit is intended to achieve significant reductions in stormwater-related erosion from municipal roads, both paved and unpaved. Under this permit, municipalities shall implement a customized, multi-year stormwater management plan to stabilize their road drainage system and prevent erosion and the transport of sediment.

IV. Permit Organization and Applicability

The MRGP is organized into sections that define both general permit conditions and specific road stormwater management standards that must be met on all municipal roads by January 1, 2037. Part 1, Background and Authority; Part 2, Coverage Under This Permit; Part 3, Application Requirements; and Part 4, Road Stormwater Management Plan, applies to all permittees subject to coverage under this General Permit. All municipalities, defined as incorporated Cities, Town, and Villages, must apply for coverage under this General Permit by July 31, 2018. Authorization under the General Permit covers discharges of regulated stormwater from municipal roads, which include all Class 1-4 town highways and their rights-of-way, as well as municipal stormwater infrastructure associated with town highways, within and outside of the municipal right-of-way.

The following Sections outline the Management Plans municipalities must develop and comply with pursuant to their authorization under the MRGP, as well as the technical standards that must be met in order to achieve full compliance with the requirements of the MRGP:

Part 4 is the Road Stormwater Management Plan (RSWMPs). RSWMPs include road erosion inventories (REIs) and Implementation Plans and Schedules. REIs will be conducted on all hydrologically-connected municipal roads to establish a baseline compliance condition in meeting MRGP Standards. Hydrologically-connected roads segments are those road segments where the Secretary of the Agency has determined that road and drainage characteristics indicate a likelihood of discharges to surface waters, including those road segments identified as connected on the ANR Atlas. The Secretary has developed a hydrologically-connected road segment layer using GIS analysis of roadway distance to receiving waters. The REIs will evaluate all connected road segments and identify each segment as *Fully Meets*, *Partially Meets*, or *Does Not Meet* the standards outlined in this General Permit. REIs must be conducted by each municipality every five years. Towns will be required to bring all non-complying road segments up to MRGP Standards no later than January 1, 2037. Municipalities will be required to report annually to DEC their proposed implementation schedule and progress made over the previous year in bringing road segments up to MRGP Standards.

The MRGP incorporates a 20-year compliance schedule, from the date of issuance of the Lake Champlain TMDL, allowing municipalities until 2037 to bring all hydrologically-connected road segments up to the Standards imposed in the permit. The Agency has determined 20 years to be

an appropriate schedule in light of the fact that the general permit imposes new BMP requirements on previously unregulated discharges. Municipalities have not had previous opportunities to implement the new Standards, nor would it be feasible for the majority of municipalities to bring all road segments into compliance with the new Standards in a shorter time period, given the number of noncompliant road segments and financial constraints.

Part 6 is the Road Stormwater Management Standards. The MRGP Standards are required to be met for all “hydrologically-connected” municipal road segments within the road ROW, and municipal stormwater infrastructure associated with municipal roads. The Standards constitute the Best Management Practices (BMPs) that must be implemented pursuant to this permit. Part 7 are Discharge Requirements. Applicable water quality standards are the Vermont Water Quality Standards that are in place upon the date an application for coverage under this permit is deemed administratively complete.

Part 8 are Standard Permit Conditions. The permittee shall at all times properly operate, inspect, and maintain all stormwater collection, treatment, and control systems and BMPs which are used to achieve compliance with this permit. Any permit noncompliance shall constitute a violation of 10 V.S.A. Chapter 47, the federal Clean Water Act, and related rules and regulations and may be cause for an enforcement action; revocation and reissuance, modification, or termination of the permittee’s authorization to discharge under this permit; or denial of a permit renewal application. Violations of the terms and conditions of this permit are subject to civil and criminal penalties pursuant to 10 V.S.A. §§ 1274 and 1275 and administrative enforcement pursuant to 10 V.S.A. § 1272 and Chapters 201 and 211. The Secretary may require any municipality that files an application for coverage or who is already covered under this permit to apply for an individual permit.

Part 9 are Appeals. Pursuant to 10 V.S.A. Chapter 220, any appeal of this General Permit must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision.

IV. Public Notice and Comment Period

The Secretary will provide a 46-day public comment period on the draft general permit from September 11, 2017 through October 27, 2017. Interested parties submitted written comments on the general permit to the Department at the address given below by 4:30 p.m. on October 27, 2017. All relevant comments were considered by the Secretary in finalizing this general permit.

Public information meetings will be held on:

- Tuesday October 10, 2017 from 6:00-8:00, Central Vermont Regional Planning Commission office, 29 Main Street Suite 4 Montpelier
- Wednesday October 11, 2017 from 2:00-4:00 Johnson Town Offices, 293 Lower Main Street (Route 15) Johnson

- Monday October 16, 2017 from 2:00-4:00 Martin Memorial Building, Ascutney
- Tuesday October 17, 2017 from 2:00-4:00 Brandon Town Hall, 1 Conant Square, Brandon
- Wednesday October 18, 2017 from 2:00-4:00 Northern Vermont Development Association, 36 Eastern Avenue St. Johnsbury

A copy of the MRGP and related documents may be downloaded from:

<http://dec.vermont.gov/watershed/public-notices/mrgp-public-notice>

At the meeting, Department staff will be available to answer questions concerning the general permit.

Hard copies of the General Permit and related documents may be obtained upon request.

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