

**STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)  
GENERAL PERMIT 3-9007  
FOR STORMWATER DISCHARGES FROM THE  
STATE TRANSPORTATION SEPARATE STORM SEWER SYSTEM (TS4)**

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## **PART 1: PURPOSE, PERMIT OVERVIEW, AND AUTHORITY**

### **1.1 Purpose and Permit Overview**

The purpose of this permit is to combine under one general permit to the greatest extent possible the post-construction operational stormwater requirements for the Vermont Agency of Transportation (VTrans) regarding stormwater discharges associated with: regulated small municipal separate storm sewer systems (MS4s) ; industrial activity, commonly regulated under the Multi-Sector General Permit (MSGP); and previously permitted, new, redeveloped, and expanded impervious surface, commonly regulated under State Operational Stormwater permits. Additionally, in order to meet the requirements of the Lake Champlain and Lake Memphremagog Phosphorus total maximum daily loads (TMDLs) and to ensure water quality protection across the entire State, this permit requires VTrans to develop and implement Phosphorus Control Plans for the TS4 (as defined in Subpart 2.1) in the Lake Champlain and Lake Memphremagog Basins and requires VTrans to comply with the six minimum control measures under Part 6 throughout the entire TS4. This permit creates and requires one comprehensive program for stormwater management across VTrans owned or controlled road and non-road infrastructure for the above mentioned regulatory areas, thereby ensuring compliance with regulatory requirements, while providing for permitting efficiency.

### **1.2 Authority**

This permit is issued pursuant to the Vermont Water Pollution Control statute, 10 V.S.A. Chapter 47, specifically §§ 1258 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 Vermont Stormwater Management Rule (Environmental Protection Rules, Chapter 18); the Vermont Stormwater Management Rule for Stormwater-Impaired Waters (Environmental Protection Rules, Chapter 22); the federal Clean Water Act (CWA), as amended, 33 U.S.C. § 1251 *et seq.*; and related regulations of the United States Environmental Protection Agency (U.S. EPA) at 40 C.F.R. Part 122.

This permit meets the minimum requirements for stormwater permits issued by the State of Vermont as the delegated authority to administer the federal National Pollutant Discharge Elimination System (NPDES) and also complies with state-specific permitting requirements for regulated stormwater runoff from impervious surfaces.

## **PART 2: COVERAGE UNDER THIS PERMIT**

### **2.1 Applicability**

A. This permit applies to:

1. VTrans owned or controlled state highways, sidewalks, multi-use pedestrian paths, welcome centers, airports, gravel pits, mineral mining,

maintenance facilities, park & rides, truck weigh stations, and other impervious surfaces, except as provided in Part 2.1.A.2.

2. VTrans-owned facilities leased to third parties, including welcome centers and airport facilities (hangers and terminals), and excluding rail lines, rail yards, public transit facilities, and rail trails.
  3. Part 7.10.B of this permit applies to tenants at VTrans-owned airports, including air passenger companies, cargo companies, fixed base operators, and other parties who routinely perform industrial activities on VTrans-owned airport property.
- B. For purposes of this permit, “VTrans controlled” means that VTrans has assumed full legal responsibility for the management of discharges of regulated stormwater runoff from the impervious surfaces. As used in this permit “full legal responsibility” means legal control of the stormwater system, including a legal right to access the stormwater system, a legal duty to properly maintain the stormwater system, and a legal duty to repair and replace the stormwater system when it no longer adequately protects waters of the State.
- C. The areas and facilities listed in Subparts 2.1.A.1 and 2.1.A.2 will be collectively referred to as the Transportation Separate Storm Sewer System (TS4).

## **2.2 Eligible Discharges**

The following discharges are eligible for authorization under this permit, except as provided in Subpart 2.3:

- A. Stormwater Discharges.
1. This permit authorizes stormwater discharges to waters of the State from the areas listed in Subpart 2.1, including:
    - a. Stormwater discharges associated with industrial activity at mineral mining and airport facilities, except for any stormwater discharges specifically prohibited under Part 7 of this permit;
    - b. Stormwater discharges from VTrans’ designated regulated small municipal separate storm sewer system (MS4); and
    - c. Except for stormwater discharges to waters that are listed on the EPA-approved State of Vermont 303(d) List of Waters as being principally impaired for stormwater and do not have an approved stormwater TMDL or WQRP, stormwater discharges from previously permitted, new, redeveloped, and expanded impervious surfaces, and the renewals of those permitted discharges.

B. Non-Stormwater Discharges.

VTrans is authorized to commingle discharges from the following non-stormwater sources with discharges of stormwater provided that these sources are not substantial contributors of pollutants to the waters of the State:

1. Potable water, including water line flushings;
2. Landscape watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling;
3. Diverted stream flows;
4. Uncontaminated ground water, including pumped ground water, or spring water;
5. Foundation or footing drains where flows are not contaminated with process materials, and to which there are no floor drain, septic wastewater, or grey water connections;
6. Uncontaminated condensate from air conditioners, coolers/chillers, and other compressors and from the outside storage of refrigerated gases or liquids;
7. Irrigation drainage;
8. Uncontaminated water from crawl space pumps;
9. Flows from riparian habitats and wetlands;
10. Discharges from emergency/unplanned fire-fighting activities;
11. Fire hydrant flushing;
12. Pavement wash waters where no detergents or hazardous cleaning products are used (e.g., bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, nonylphenols), and the wash waters do not come into contact with oil and grease deposits, sources of pollutants associated with industrial activities, or any other toxic or hazardous materials, unless residues are first cleaned-up using dry clean-up methods (e.g., applying absorbent materials and sweeping, using hydrophobic mops/rags) and where appropriate control measures have been implemented to minimize discharges of mobilized solids and other pollutants (e.g., filtration, detention; settlement);
13. Routine external building washdown/power wash water that does not use detergents or hazardous cleaning products (e.g., those containing bleach, hydrofluoric acid, muriatic acid, sodium hydroxide, nonylphenols); and

14. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of a facility, but not intentional discharges from the cooling tower (e.g., “piped” cooling tower blowdown or drains).

### **2.3 Limitations on Coverage**

Any discharges not expressly eligible for authorization under this permit cannot become authorized or shielded from liability under CWA section 402(k) by disclosure to EPA, state, or local authorities after issuance of this permit via any means, including the Notice of Intent (NOI) to be covered by the permit, the Stormwater Management Program (SWMP), or during an inspection. Except for those eligible discharges listed under Subpart 2.2, discharges of any material, including vehicle and equipment maintenance spills, fuels, wash water, construction debris, and oil and other hazardous substances, are not authorized by this permit.

- A. Discharges Mixed with Non-Stormwater. Stormwater discharges that are mixed with non-stormwater discharges are not eligible for coverage under this permit, except for those mixed with: allowable non-stormwater discharges listed in Subpart 2.2.B, a discharge authorized by a different NPDES permit, or a discharge that does not require NPDES authorization.
- B. Stormwater Discharges Associated with Construction Activity. Stormwater discharges associated with construction activity disturbing one acre or more, or that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more, are not eligible for coverage under this permit.
- C. Discharges Currently or Previously Covered by Another Permit. Unless you have received written notification from the Agency specifically allowing these discharges to be covered under this permit, you are not eligible for coverage under this permit for any of the following:
  1. Stormwater discharges associated with industrial activity that are currently covered under an individual NPDES permit or an alternative NPDES general permit;
  2. Discharges covered within five years prior to the effective date of this permit by an individual permit or alternative general permit where that permit established site-specific numeric water quality-based limitations developed for the stormwater component of the discharge; or
  3. Discharges from facilities where any NPDES permit has been or is in the process of being denied, terminated, or revoked by EPA or the State (this does not apply to the routine reissuance of permits every five years).
- D. Stormwater Discharges Subject to Effluent Limitations Guidelines. For discharges from facilities subject to stormwater effluent limitation guidelines under 40 CFR, Subchapter N, only those stormwater discharges from mine

dewatering discharges at crushed stone, construction sand and gravel, and industrial sand mining facilities (40 C.F.R. Part 436, Subparts B, C, and D) are eligible for coverage under this permit.

- E. Endangered and Threatened Species and Critical Habitat Protection. Coverage under this permit is not available if your discharges under this permit are likely to result in a take of any species that are listed as threatened or endangered, or result in adverse impacts to or destruction of habitat that is designated as critical, under Vermont's Protection of Endangered Species Law, 10 V.S.A. §§ 5401-5410.
- F. Protection of Water Quality. Discharges that fail to reduce the discharge of pollutants from the TS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act are not eligible for coverage under this permit. The Secretary may require corrective action or an application for an individual permit or alternative general permit if the TS4 areas are determined by the Secretary to fail to satisfy appropriate water quality requirements of the Clean Water Act.
- G. Discharges to Waters with Approved TMDLs. Discharges of a pollutant into a water with an approved TMDL for that pollutant are not eligible for coverage under this permit, unless the discharge is consistent with the assumptions and requirements of any available wasteload allocation for the discharge approved by EPA pursuant to 40 C.F.R. § 130.7. This eligibility condition applies at the time a NOI for coverage is submitted. If a condition changes after submission of a NOI, permit coverage will continue provided that the permittee complies with the applicable requirements of this permit. If the Secretary determines that more stringent requirements are necessary to support compliance with any future TMDLs or WQRPs, the Secretary will impose such requirements through a modification of this permit or by their inclusion in this permit upon reissuance. Alternatively, the Secretary may notify the permittee that an individual permit application is necessary.
- H. Discharges to CERCLA Sites. Discharges to a federal CERCLA site, unless the Secretary determines the discharge is eligible for coverage under this permit. In determining eligibility for coverage under this Part, the Secretary may evaluate whether you are implementing or plan to implement adequate controls or procedures to ensure the discharge will not lead to recontamination of aquatic media at the CERCLA Site such that the discharge will cause or contribute to an exceedance of a water quality standard. If it is determined that the facility discharges to a CERCLA Site after you have obtained coverage under this permit, you must contact the Secretary and ensure that you either have implemented or will implement adequate controls or procedures to ensure that your discharges will not lead to recontamination of aquatic media at the CERCLA Site such that it will to cause or contribute to an exceedance of a water quality standard. For the purposes of this permit, a permittee discharges to a federal CERCLA Site if the discharge flows directly into the site through its own conveyance, or a through a



conveyance owned by others, such as a municipal separate storm sewer system (MS4).

## **2.4 Limitations on Coverage Specific to the VTrans Designated Small MS4 and Facilities Subject to Part 7**

- A. Eligibility for New Dischargers and New Sources: Based on Water Quality Standards. If there is a new discharger or a new source to which this permit is applicable, you are not eligible for coverage under this permit if the Secretary determines prior to your authorization to discharge that your discharges will not meet an applicable water quality standard (i.e., your discharges will cause or contribute to an exceedance of a water quality standard). In such case, the Secretary may notify you that an individual permit application is necessary, or, alternatively, the Secretary may authorize your coverage under this permit after you implement additional control measures so that your discharges will meet water quality standards.
- B. Eligibility for New Dischargers and New Sources to Water-Quality Impaired Waters. If there is a new discharger or a new source to which this permit is applicable, you are not eligible for coverage under this permit to discharge to an impaired water unless you do one of the following:
  - 1. Prevent all exposure to stormwater of the pollutant(s) for which the waterbody is impaired, and retain documentation of procedures taken to prevent exposure onsite with your SWMP;
  - 2. Prior to submitting your NOI, provide to the Secretary information or other documentation to support your claim that the pollutant(s) for which the waterbody is impaired is not present at your site, and retain such documentation with your SWMP; or
  - 3. Prior to submitting your NOI, provide information to the Secretary either data or other technical documentation, to support a conclusion that the discharge is expected to meet applicable water quality standards (i.e., that pollutants of concern will not be discharged at levels that will cause or contribute to an exceedance of a water quality standard), and retain such information with your SWMP. The information to be submitted must be sufficient to demonstrate:
    - a. For discharges to waters without an EPA-approved TMDL, that the discharge of the pollutant for which the water is impaired will meet water quality standards at the point of discharge to the waterbody; or
    - b. For discharges to waters with an applicable EPA-approved TMDL, that there are, in accordance with 40 C.F.R. § 122.4(i), sufficient remaining wasteload allocations in the TMDL to allow your discharge and that existing dischargers to the waterbody are subject to compliance schedules designed to bring the waterbody into attainment

with water quality standards (e.g., a reserve allocation for future growth).

You are eligible under Part 2.4.B.3 if you receive a determination from the Secretary that your discharge will meet applicable water quality standards (i.e., will not cause or contribute to an exceedance of a water quality standard), and you document the Secretary's determination in your SWMP.

**C. Eligibility for New Dischargers and New Sources to Outstanding Resource Waters.**

1. If you are a new discharger or a new source, you are not eligible for coverage under this permit for discharges to waters designated by the State as Outstanding Resource Waters. Instead, you must submit an application for an individual permit.

Note: For the purposes of this permit, your project is considered to discharge to an Outstanding Resource Water if the first water of the State to which you discharge is identified as an Outstanding Resource Water. For discharges that enter a separate storm sewer system prior to discharge, the first water of the State to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

### **PART 3: APPLICATION REQUIREMENTS**

To apply for authorization to discharge stormwater from the TS4, VTrans shall submit an NOI and SWMP in accordance with the deadlines in Subpart 3.2. After the Secretary has determined that the NOI and SWMP are administratively complete, the Secretary shall provide public notice of and the opportunity for public comment on the NOI and SWMP, pursuant to the statutes and rules in effect at the time the application is determined to be administratively complete.

#### **3.1 Submittal of NOI, Necessary Attachments, and Application Fee**

- A. An application for coverage under this permit shall consist of a completed NOI form and all necessary attachments. NOI forms shall be provided by the Secretary. If an electronic NOI submittal system is available, the applicant shall submit all application materials, including applicable fees, through the electronic NOI system. If an electronic NOI system is not available, applications materials shall be submitted on a CD/DVD by U.S. mail, or via other means specified by the Secretary. Unless full-size paper copies of site plans are specifically requested by the Stormwater Program, electronic versions of site plans are preferred.
- B. At the same time that VTrans submits the NOI, SWMP, and necessary attachments, VTrans shall pay the applicable fees by using electronic transfer of funds. The applicable fees are included under 3 V.S.A. § 2822(j)(2).

### **3.2 Deadlines**

VTrans shall submit the initial NOI and SWMP to the Secretary by November 29, 2022.

### **3.3 Amendments**

- A. The Secretary shall provide public notice of and an opportunity for comment on applications for changes to authorizations under this permit and the SWMP, other than changes to correct typographical errors, changes to contact information, and other similar changes to the authorization that do not require technical review or the imposition of new conditions or requirements. Public notice shall be provided pursuant to the statutes and rules in effect at the time the application for amendment is determined to be administratively complete.
- B. Proposed changes and amendments to authorizations under this permit and the SWMP requiring public notice and an opportunity for public comment under Subpart 3.3.A include:
  - 1. Submittal of TMDL and WQRP implementation plans, including the Stormwater Flow Restoration Plan (FRP) and Phosphorus Control Plan (PCP), and submittal of phases or components of those plans.
  - 2. Modification of the SWMP, including changes to the FRP, PCP, and Stormwater Pollution Prevention Plan (SWPPP), and changes to the best management practices (BMPs) of the SWMP.
  - 3. Creation of new, redeveloped, or expanded impervious surface subject to Part 8.
  - 4. Addition of new airport or mineral mining facilities subject to Part 7.
  - 5. The incorporation of stormwater permits previously issued under 10 V.S.A. § 1264.
- C. At the same time that an NOI for an amendment is submitted, the applicant shall pay any fees required under 3 V.S.A. § 2822(j)(2).

### **3.4 Contents of the Notice of Intent**

NOIs must be signed in accordance with Part 11 of this permit, and NOIs for new, redeveloped, or expanded impervious surface must be signed by a designer acceptable to the Secretary. NOIs must include, at a minimum, the following information:

- A. Information to clearly indicate that the NOI is for coverage or amendment of coverage under this permit.
- B. Name of person responsible for overall coordination of the SWMP and that individual's mailing address and telephone number, or if the applicant is an air

transportation facility operator subject to the requirements of Part 7.10.B, the name of the person responsible for coordinating SWPPP implementation with VTrans and that individual's mailing address and telephone number.

- C. If VTrans is relying on another entity to satisfy one or more of VTrans' permit obligations, the identity of that entity(ies) and the element(s) it will be implementing.
- D. If the NOI is for new, redeveloped, or expanded impervious surface: the legal name and address of the site owner and, if different than the owner, the operator; the site name, if there is one, and address; the type of discharge to be authorized; the receiving waters, and any other information required by the Secretary.
- E. If the NOI is for renewal of a previously issued authorization or authorizations for discharges of stormwater runoff, the specific permit number or numbers.

### **3.5 Determination of Complete Application and Request for Additional Information**

The Secretary reserves the right to return an application that is incomplete or inaccurate or does not meet the requirements of this permit. The Secretary may require the applicant to submit additional information that the Secretary considers necessary in order to make a decision on the eligibility for, or the issuance or denial of, an authorization to discharge pursuant to this permit. The Secretary may deny an authorization to discharge pursuant to this permit if the additional information requested is not provided to the Secretary within sixty (60) days of the Secretary's request or if any additional information submitted is inadequate for the Secretary to make a decision on the eligibility for, or the issuance or denial of, an authorization to discharge pursuant to this permit.

### **3.6 Public Notice and Public Comments**

- A. The Secretary shall follow the statutes and rules regarding public notice in effect at the time an application is determined to be administratively complete.
- B. The period for public comment may be extended or reopened at the sole discretion of the Secretary.

### **3.7 Authorization to Discharge**

VTrans and air transportation facility operators subject to the requirements of Part 7.10.B shall only be authorized to discharge under the terms and conditions of this permit upon receipt of a written authorization to discharge from the Secretary.

## **PART 4: DISCHARGE REQUIREMENTS**

### **4.1 Vermont Water Quality Standards**

The applicable water quality standards shall be those Vermont Water Quality Standards in effect at the time the Secretary issues an authorization under this permit.

### **4.2 Discharges to Impaired Waters**

Impaired waters are those waters that the Secretary has identified pursuant to Section 303(d) of the Clean Water Act as not meeting the Vermont Water Quality Standards. Impaired waters encompass both those with approved TMDLs or WQRPs, and those for which TMDL development has been identified as necessary, but for which a TMDL has not yet been approved by EPA.

Note: For the purposes of this permit, except for Part 9, your project is considered to discharge to an impaired water if the first water of the State to which you discharge is identified as an impaired water. For discharges that enter a separate storm sewer system prior to discharge, the first water of the State to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

#### **A. Discharges to Impaired Waters with an Approved TMDL**

1. For any discharge from the TS4 to impaired waters with an approved TMDL, VTrans shall control discharges consistent with the assumptions and requirements of any wasteload allocation (WLA) applicable to VTrans in the TMDL. VTrans shall describe in the SWMP all measures that are being used to address this requirement. The Secretary may notify VTrans of the need to comply with additional requirements that are consistent with the assumptions and requirements of any applicable WLA or that an individual permit application is necessary in accordance with Part 11 of this permit.
2. If the applicable TMDL does not specify a WLA or other requirements either individually or categorically for the TS4 discharge and VTrans has complied with the terms and conditions of this permit, and has undertaken Secretary-approved measures and documented them in the SWMP to address the pollutant(s) of concern addressed by the TMDL, then compliance with these conditions will be presumed adequate to meet the requirements of this permit.
3. If the applicable TMDL specifies a WLA or other requirements either individually or categorically for the TS4 discharge, VTrans shall describe in its annual reports all control measures which have been or are planned to be implemented to control discharges consistent with the assumptions and requirements of the TMDL WLA. VTrans shall include in the annual reports and the SWMP the rationale supporting VTrans' assessment that such controls are adequate to meet the applicable TMDL requirements.

4. For those areas of the TS4 that discharge to stormwater-impaired waters with EPA-approved stormwater TMDLs, VTrans shall comply with the requirements in Subpart 9.1.
5. For those areas of the TS4 that discharge to Lake Champlain, VTrans shall comply with the requirements in Subpart 9.2.
6. If the Secretary determines that more stringent requirements are necessary to bring discharges into compliance with any future TMDLs or WQRPs, the Secretary shall impose such requirements through amendment of this permit or through the reissuance of this permit.

**B. Discharges to Impaired Waters without an Approved TMDL**

If the TS4 discharges to an impaired water that is without an approved TMDL, but that is listed as impaired on the “State of Vermont 303(d) List of Impaired Waters, Part A – Impaired Surface Waters in Need of TMDL,” VTrans shall address in its SWMP and annual reports how any identified and mapped VTrans’ discharges that cause or contribute to the impairment will be controlled to ensure compliance with the Vermont Water Quality Standards. VTrans may achieve an increased level of control through additional BMPs or enhancement of existing BMPs. The content of the response plan should reflect the magnitude and complexity of the impairment and VTrans’ potential to contribute to the impairment.

**4.3 Discharges to High Quality Waters; Anti-degradation**

This permit is adopted in conformance with the Anti-Degradation Policy of the Vermont Water Quality Standards and the Department of Environmental Conservation’s Interim Anti-Degradation Implementation Procedure (October 2010).

The STPs and BMPs required under this permit comply with federal and state rules and regulations, were developed based on a review of leading national stormwater standards, and were informed by best available information regarding the effectiveness of the STPs and BMPs. Additionally, the STPs and BMPs required under this permit were informed by stakeholder input and subject to public review and comment regarding their effectiveness.

The STPs and BMPs required under this permit will be reviewed in cycles not to exceed five years, in conformance with the Department’s established plan, to ensure that the required practices provide the highest level of stormwater treatment. Where warranted based on this review, the Department will revise this permit to add, remove, or modify practices to ensure ongoing compliance with the anti-degradation requirements of the Vermont Water Quality Standards.

In the vast majority of cases, application of the STPs and BMPs required under this permit will maintain and protect the higher quality of the State’s high quality waters, will

prevent limited reductions in the existing higher quality of those waters, and will minimize risk to the existing and designated uses of those waters.

Therefore, compliance with this permit affords a rebuttable presumption of compliance with the Anti-Degradation Policy. The overall presumption of compliance with anti-degradation requirements for projects and sites in conformance with this permit may be rebutted on a case-by-case basis if warranted by credible and relevant project- or site-specific information available to the Agency during the review of an application for a proposed discharge.

## **PART 5: STORMWATER MANAGEMENT PROGRAM (SWMP)**

### **5.1 Comprehensive Plan for Covered Stormwater Discharges**

VTrans must develop a written Stormwater Management Program (SWMP). The SWMP must be signed in accordance with Part 11 of this permit. The SWMP 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 industrial control measures described in Part 7, including the Stormwater Pollution Prevention Plan (SWPPP); the operational stormwater requirements under Part 8; and the Flow Restoration Plan (FRP) and Phosphorus Control Plan (PCP) developed in accordance with Part 9.

### **5.2 Reviewing and Updating Stormwater Management Programs**

- A. SWMP Review: VTrans shall perform an annual review of its SWMP in conjunction with preparation of the annual report required under Subpart 10.2.
- B. SWMP Update: When VTrans amends its SWMP during the life of this permit, the requirements of Part 3 shall apply.
- C. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation: When VTrans takes over ownership, operational authority, or SWMP implementation of impervious surfaces not part of the TS4 at the time of VTrans' initial application for coverage under this permit, the impervious surface shall be subject to the requirements of this permit. If no amendments to the SWMP are necessary to comply with this permit, at a minimum VTrans shall notify the Secretary of this addition to the TS4 in its annual report submitted under Subpart 10.2.

## **PART 6: MINIMUM CONTROL MEASURES**

### **6.1 Applicability**

The requirements of this section, "Part 6: Minimum Control Measures," apply to the TS4, as defined in Subpart 2.1.

## **6.2 Requirement to Reduce Pollutants to the Maximum Extent Practicable**

- A. VTrans shall develop, implement, and enforce a stormwater management program, which shall include the six minimum control measures, designed to reduce the discharge of pollutants from the TS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. For purposes of the six minimum control measures, implementation of BMPs consistent with the provisions of the SWMP shall constitute compliance with the standard of reducing pollutants to the MEP.
- B. VTrans must develop and fully implement the six minimum control measures in accordance with this permit by the expiration date of this permit. Nothing in this schedule is intended to relieve VTrans from continuing to implement the six minimum measures as previously authorized. The SWMP must include the following information for each of the six minimum control measures:
  - 1. The person or persons responsible for implementing or coordinating the SWMP and the BMPs for the SWMP.
  - 2. The BMPs that VTrans or another entity will implement for each of the six minimum control measures. EPA has provided a list of sample BMPs on its web site: <https://www.epa.gov/npdes/national-menu-best-management-practices-bmps-stormwater#edu>
  - 3. The measurable goals for each of the BMPs including, as appropriate, the months and years in which the required actions will be undertaken, including interim milestones and the frequency of the action. When possible, the measurable goals should include outcome measures related to the BMPs impact on water quality, stream channel stability, ground water recharge, and flood protection. EPA has provided guidance on developing measurable goals at the link above.
  - 4. In addition to the requirements listed above, VTrans must provide a rationale for how and why it selected each of the BMPs and measurable goals for the SWMP. The rationale should describe: (1) the stormwater problems to be addressed by the BMPs, (2) the major alternative BMPs to the ones selected and why they were not adopted, (3) the behavioral and institutional changes necessary to implement the BMPs, and (4) expected water quality outcomes.

## **6.3 Minimum Control Measures**

- A. Public Education and Outreach on Stormwater Impacts
  - 1. VTrans shall develop and implement a public education campaign reasonably designed to educate frequent facility users about the impacts of stormwater discharges on water bodies. The program shall include the



steps that facility users can take to reduce pollutants in stormwater runoff including an explanation of the problem of stormwater volume and solutions for reducing the amount of runoff volume reaching waters of the State.

2. VTrans shall document its decision process for the development of a stormwater public education and outreach program in accordance with Subpart 6.2.B.
3. VTrans shall include the following public education and outreach measures in its program:
  - a. Maintain a web site with locally relevant stormwater management information and promote its existence and use,
  - b. Establish educational kiosks or demonstration projects at public facilities, and
  - c. Participate in the Chittenden County MS4 Stormwater Program Agreement described in the July 1, 2018 memorandum of understanding between designated small MS4s, VTrans, and the Chittenden County Regional Planning Commission (website: <http://smartwaterways.org/>) or subsequent amendment, or in a regional public education and outreach strategy approved by the Secretary.

#### B. Public Involvement and Participation

1. VTrans shall develop and implement a public involvement and participation program, and the program shall, at a minimum, comply with applicable state and local public notice requirements. Public notice of the SWMP concurrent with the NOI and public notice of SWMP amendments shall serve to ensure the public is included in the development and review of the SWMP.
2. VTrans shall document its decision process for the development of a stormwater public involvement and participation program in accordance with Subpart 6.2.B.
3. VTrans shall implement the following public involvement and participation activities:
  - a. Participate in the Chittenden County MS4 Stormwater Program Agreement described in the July 1, 2018 memorandum of understanding between designated small MS4s, VTrans, and the Chittenden County Regional Planning Commission (website: <http://smartwaterways.org/>) or subsequent amendment, or in a regional public involvement and participation program approved by the Secretary.

- b. If rather than participating in the Chittenden County Regional Stormwater Public Involvement and Participation Program, VTrans elects to implement another regional public involvement and participation strategy approved by the Secretary, VTrans' rationale statement, provided pursuant to Subpart 6.2.B, shall, at a minimum, include the following information:
  - i. The plan to actively involve the public in the further development and implementation of the VTrans' program,
  - ii. The target audiences for the public involvement program,
  - iii. The types of public involvement activities included in the program, and
  - iv. The structure of responsibility for the overall management and implementation of the stormwater public involvement and participation program and, if different, describe the responsible entities for each of the BMPs identified for this program.

#### C. Illicit Discharge Detection and Elimination

- 1. VTrans shall develop, implement, and enforce a program to detect and eliminate illicit discharges into the stormwater systems of the TS4. As a part of VTrans' program to detect and eliminate illicit discharges, VTrans shall:
  - a. Develop and maintain a storm sewer Geographic Information System (GIS) or AutoCAD map of the separate storm sewer systems within the VTrans' designated regulated small MS4, showing the location of all outfalls and the names and location of all waters of the State that receive discharges from those outfalls, and, to the extent practicable, map the remainder of the stormwater systems of the TS4.
  - b. Adopt a policy prohibiting non-stormwater discharges, except for those listed in Subpart 2.2.B, into the stormwater systems of the TS4 and implement appropriate enforcement procedures and actions.
  - c. Develop and implement a plan to detect and address non-stormwater discharges, with emphasis on outfalls in the stormwater-impaired watersheds, and random illegal dumping to the stormwater systems of the TS4, such as the dumping of RV wastes, used oil, and paint. In developing the plan VTrans shall collect or utilize existing local or Agency data. VTrans may conduct such investigations itself, contract with independent entities to conduct such investigations, coordinate such investigations with others, such as regulated small MS4s, or any combination of these approaches. The plan shall:

- i. Include dry weather field screening for non-stormwater flows and field tests of selected chemical parameters as indicators of discharge sources,
    - ii. Address on-site sewage disposal systems that flow into the storm drainage system,
    - iii. Include procedures for locating priority areas likely to have illicit discharges, which include those areas with a higher likelihood of illicit connections (e.g., areas with older sanitary sewer lines), and procedures for conducting ambient sampling to locate impacted reaches,
    - iv. Include procedures, including the specific techniques used, for tracing the source of an illicit discharge,
    - v. Include procedures for removing the source of the illicit discharge, and
    - vi. Include procedures for program evaluation and assessment.
  - d. Inform public employees and the general public of hazards associated with illegal discharges and improper disposal of waste.
  - e. Address the following categories of non-stormwater discharges, if VTrans identifies them as significant contributors of pollutants to the stormwater systems of the TS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges from firefighting activities.
  - f. Provide the Secretary with an annual status report of monitoring activities conducted and corrective actions taken, pursuant to the plan developed and implemented under Subpart 6.3.C.1.c. In the final annual report required by this permit, VTrans shall summarize the monitoring activities and corrective actions taken during the course of this permit.
  - g. Notify the Secretary as soon as practicable after discovery of an unpermitted discharges to surface waters that may pose a threat to human health or the environment. The Secretary, in compliance with Act 86 (2016), will post this unpermitted discharge on the Agency's website for public notice.
2. VTrans' rationale statement, provided pursuant to Subpart 6.2.B, shall, at a minimum, include the following information:

- a. How VTrans will maintain and improve the storm sewer map required under Subpart 6.3.C.1.a., the sources of information VTrans used to create the maps, and how VTrans plans to verify the outfall locations with field surveys.
- b. A copy of the policy required under Subpart 6.3.C.1.b.
- c. The plan to ensure through appropriate enforcement procedures and actions that the illicit discharge policy is implemented.
- d. How VTrans plans to inform public employees and the general public of hazards associated with illegal discharges and improper disposal of waste, and how this plan will coordinate with the public education and outreach, public involvement and participation, and pollution prevention and good housekeeping minimum control measures.

#### D. Construction Site Stormwater Runoff Control

1. Pursuant to 40 C.F.R. § 122.34(b)(4), VTrans must develop, implement, and enforce a program to reduce pollutants in any stormwater runoff from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.

Because the State of Vermont is delegated to implement the federal National Pollutant Discharge Elimination System (NPDES), the Secretary must regulate stormwater runoff from construction activities that result in a land disturbance of greater than or equal to one acre and stormwater runoff from construction activity disturbing less than one acre that is part of a larger common plan of development or sale. To satisfy this requirement, the Secretary has issued General Permit 3-9020 (2020) for stormwater runoff from construction activities. If a construction project requiring a permit does not qualify for coverage under the general permit, then an individual permit from the Secretary is required. The requirements of the Agency's construction stormwater program are at least as stringent as the requirements of 40 C.F.R. § 122.34(b)(4). Therefore, the Secretary has determined that VTrans is not required to develop a separate program. However, VTrans shall:

- a. Develop and implement procedures to assure that construction activities undertaken by VTrans are properly permitted and in compliance with the terms of their stormwater construction permits.
- b. In conjunction with the review required by Subpart 6.3.E, VTrans shall review its existing policies to determine their effectiveness in managing construction-related erosion and sediment and controlling waste such as discarded building materials, concrete truck washout,

chemicals, litter, and sanitary waste at construction sites that may cause adverse impacts to water quality. VTrans shall also review its policies for their consistency with the requirements of the Secretary's general permits for stormwater runoff from large and small construction sites and construction erosion guidelines for low impact development. If VTrans' review indicates that its policies are inconsistent with the Secretary's permits, VTrans shall amend its policies to complement, at a minimum, or be more stringent than the requirements of the Secretary.

- c. Develop and implement a plan that addresses stormwater runoff from VTrans' construction activities not subject to state or federal erosion control requirements. At a minimum, the plan shall require implementation of the measures in the Low Risk Site Handbook for Erosion Prevention and Sediment Control.
2. If the Secretary ceases to implement the Agency's stormwater construction permit program, this permit shall be reopened and modified, as necessary.
3. VTrans shall provide the foregoing plans, policies, and procedures as a part of its SWMP.

E. Post-Construction Stormwater Management for New Development and Redevelopment

1. Pursuant to 40 C.F.R. § 122.34(b)(5), VTrans shall develop, implement, and enforce a program to address post-construction stormwater runoff from new development and redevelopment projects that involve land disturbance of greater than or equal to one acre and that are not subject to regulation under the Agency's post-construction stormwater management permit program. The program must ensure that controls are required that will prevent or minimize water quality impacts.

Pursuant to 10 V.S.A. § 1264 and Agency rules and procedures adopted thereunder, the Secretary is required to regulate post-construction stormwater runoff from activities that result in creation of new or expansion of existing impervious surface of greater than one-half acre. However, there is a gap between what the Agency's post-construction stormwater management permit program regulates and what VTrans must regulate to comply with this minimum control measure. This gap consists of activities that disturb one acre of earth or greater, but that do not trigger post construction jurisdiction. Except for those activities falling within the gap and thus, not requiring a state permit, the requirements of the Agency's post-construction stormwater management permit program are at least as stringent as the requirements of 40 C.F.R. § 122.34(b)(5). Consequently, VTrans shall develop, implement, and enforce a program to reduce pollutants in any post-construction stormwater runoff from only those activities that result in a land disturbance of greater

than or equal to one acre and that are not subject to regulation under the Agency's post-construction stormwater management permit program.

2. In conjunction with the review required by Subpart 6.3.D, VTrans shall review existing policies to:
  - a. Determine their effectiveness in managing stormwater runoff that discharges from new development and redevelopment projects to prevent adverse impacts to water quality,
  - b. Determine their consistency with the requirements of the Secretary's rules and general permits regulating post-construction stormwater runoff,
  - c. Assess whether changes can be made to such policies, regulations and ordinances in order to support low impact design options (e.g. green roofs; infiltration practices, such as rain gardens, curb extensions, planter gardens, porous and pervious pavements, and other designs to manage stormwater using landscaping and structured or augmented soils; water harvesting devices, such as rain barrels and cisterns; and the use of stormwater for non-potable uses), and
  - d. Assess whether changes can be made to current street design and parking lot guidelines and other requirements that affect the creation of impervious surfaces to support low impact design options.

If VTrans' review indicates that its policies are inconsistent with the Secretary's permits, VTrans shall amend its policies to complement, at a minimum, or be more stringent than the requirements of the Secretary.

3. VTrans shall develop and implement procedures to identify new development and redevelopment projects that disturb greater than or equal to one acre, that are not subject to regulation under the Agency's post-construction stormwater management permit program.
4. For stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre that are not subject to regulation under the Agency's post-construction stormwater management permit program, VTrans shall adopt a plan to:
  - a. Prevent or minimize water quality impacts from post-construction stormwater runoff from such developments,
  - b. Utilize a combination of structural, non-structural, and low-impact BMPs (e.g. green roofs; infiltration practices, such as rain gardens, curb extensions, planter gardens, porous and pervious pavements, and other designs to manage stormwater using landscaping and structured or augmented soils; water harvesting devices such as rain barrels and cisterns; and the use of stormwater for non-potable uses), which are appropriate, and

- c. Ensure adequate long-term operation and maintenance of BMPs.
- 5. For stormwater runoff that discharges from new development and redevelopment projects that disturb greater than or equal to one acre, that are not subject to regulation under the Agency's post-construction stormwater management permit program, VTrans shall:
  - a. Develop and implement procedures for inspecting development and redevelopment projects for compliance with the conditions of VTrans' policies.
  - b. Develop and implement procedures to ensure that development and redevelopment activities undertaken by VTrans, including road projects, are properly permitted, constructed, and maintained.
- 6. VTrans shall provide the foregoing plans, policies, and procedures as a part of its SWMP.

F. Pollution Prevention and Good Housekeeping for VTrans' Operations

- 1. VTrans shall develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from all VTrans' operations related to the TS4.
- 2. The program shall include the following:
  - a. A list of the VTrans operations covered by the program,
  - b. A training component, maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatable and other pollutants,
  - c. Controls for reducing or eliminating the discharge of pollutants from the TS4, and
  - d. Procedures for compliance with applicable state and federal laws for the proper disposal of waste, including dredged spoil, accumulated sediments, floatables, and other debris.
- 3. Where lawn or garden fertilizers are used in the facility operation, VTrans shall prohibit the use of any phosphorus containing fertilizer, unless warranted by a current soil test. If a phosphorus fertilizer is used, a soil test shall be performed annually and a copy of the test submitted with the annual report.
- 4. VTrans' shall provide a copy of its operation and maintenance program to prevent or reduce pollutant runoff from VTrans' operations as a part of its SWMP.

## **6.4 Evaluation, Reporting, and Monitoring**

- A. VTrans shall submit an annual report in compliance with Subpart 10.2 that shall evaluate VTrans' compliance with the minimum control measures for the regulated areas and any designated facilities. The evaluation shall address program compliance, the appropriateness of identified BMPs, and progress toward achieving identified measurable goals. The annual report shall include:
  - 1. The status of compliance with the requirements of Part 6 of this permit,
  - 2. Results of information collected and analyzed, including monitoring data, if any, during the reporting period,
  - 3. A summary of the stormwater activities to be undertaken during the next reporting cycle,
  - 4. A change in any identified BMPs or measurable goals for any of the minimum measures, and
  - 5. Notice that VTrans is relying on another governmental entity to satisfy permit obligations, if applicable.
- B. When VTrans conducts monitoring for illicit discharges pursuant to Subpart 6.3.C, all records of monitoring information shall include:
  - 1. The date, exact place, and time of sampling or measurements,
  - 2. The names(s) of the individual(s) who performed the sampling or measurements,
  - 3. The date(s) analyses were performed,
  - 4. The names of the individuals who performed the analyses,
  - 5. The analytical techniques or methods used, and
  - 6. The results of such analyses.
- C. The Agency may require VTrans on a case-by-case basis to undertake water quality monitoring at an individual stormwater discharge point if there is evidence of an unusual discharge from the TS4 or if it is necessary to verify the effectiveness of BMPs and other control measures in VTrans' SWMP.



## **PART 7: INDUSTRIAL ACTIVITY CONTROL MEASURES**

### **7.1 Applicability; Industrial Activities at Airports & Mineral Mining Facilities**

Airport transportation facilities and facilities that conduct non-metallic mineral mining and dressing as the primary activity on site and that have the SIC Codes listed in Table 2 must develop and implement Stormwater Pollution Prevention Plans (SWPPPs) and follow all the requirements of Part 7. The requirements of this Part apply only to VTrans' airports transportation facilities and those VTrans' facilities conducting non-metallic mineral mining and dressing as the primary activity on the site. If VTrans conducts any other industrial activities requiring coverage pursuant to 40 C.F.R. § 122.26, VTrans shall get coverage for such activities under Vermont's Multi-Sector General Permits for Stormwater Discharges Associated with Industrial Activity or an Individual Permit, or the Secretary shall amend this permit to cover the additional industrial activities and VTrans shall seek an amendment of its authorization.

### **7.2 Conditional Exclusion for No Exposure**

If a regulated activity is covered by this Part 7, and becomes eligible for a "no exposure" exclusion from permitting under 40 C.F.R. § 122.26(g), you may file a No Exposure Certification. You are no longer required to implement the requirements of this section for that facility upon submission of a complete and accurate No Exposure Certification to the Secretary. You must submit a No Exposure Certification form to the Secretary once every five years. "No exposure" means all industrial materials or activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and runoff.

### **7.3 Definitions Specific to Part 7**

For the technology-based limits included in Parts 7.4 and 7.10, the term "minimize" means reduce or eliminate to the extent achievable using control measures, including BMPs, that are technologically available and economically practicable and achievable in light of best industry practice.

### **7.4 Control Measures and Effluent Limitations**

You must select, design, install, and implement control measures, including BMPs, to minimize pollutant discharges that address the selection and design considerations in Part 7.4.A, meet the non-numeric effluent limits in Part 7.4.B, meet limits contained in applicable effluent limitations guidelines in Part 7.4.C, and meet the water quality-based effluent limitations in Part 7.5. The selection, design, installation, and implementation of these control measures must be in accordance with good engineering practices and manufacturer's specifications. Note that you may deviate from such manufacturer's specifications where you provide justification for such deviation and include documentation of your rationale in the part of your SWPPP that describes your control measures, consistent with Part 7.7. If you find that your control measures are not achieving their intended effect of minimizing pollutant discharges to meet applicable water quality standards or any of the other non-numeric effluent limits in this permit, you must modify these control measures per the corrective action requirements in Part 7.6.

Regulated stormwater discharges from your facility include stormwater run-on that commingles with stormwater discharges associated with industrial activity at your facility.

Effluent limit requirements in Part 7.4.B that do not involve the site-specific selection of a control measure or are specific activity requirements (e.g., “Cleaning catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keeping the debris surface at least six inches below the lowest outlet pipe”) are marked with an asterisk (\*). When documenting in your SWPPP how you will comply with the requirements marked with an asterisk, you have the option of including additional information or you may just “cut- and-paste” those effluent limits verbatim into your SWPPP without providing additional documentation.

#### A. Control Measure Selection and Design Considerations

You must consider the following when selecting and designing control measures:

1. preventing stormwater from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from stormwater;
2. using control measures in combination may be more effective than using control measures in isolation for minimizing pollutants in your stormwater discharge;
3. assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures that will achieve the limits in this permit;
4. minimizing impervious areas at your facility and infiltrating runoff onsite, including bioretention cells, green roofs, and pervious pavement, among other approaches, can reduce runoff and improve groundwater recharge and stream base flows in local streams, although care must be taken to avoid ground water contamination;
5. attenuating flow using open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;
6. conserving and restoring of riparian buffers will help protect streams from stormwater runoff and improve water quality; and
7. using treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

#### B. Non-Numeric Technology-Based Effluent Limits (BPT/BAT/BCT)

You must comply with the following non-numeric effluent limits (except where otherwise specified in Part 7.10) as well as any sector-specific non-numeric effluent limits in Part 7.10:

1. Minimize Exposure. You must minimize the exposure of manufacturing, processing, and material storage areas, including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations, to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating these industrial materials and activities inside or protecting them with storm resistant coverings. Unless infeasible, you must also:
  - Use grading, berming, or curbing to prevent runoff of contaminated flows and divert run-on away from these areas;
  - Locate materials, equipment, and activities so that potential leaks and spills are contained or able to be contained or diverted before discharge;
  - Clean up spills and leaks promptly using dry methods (e.g., absorbents) to prevent the discharge of pollutants;
  - Store leaky vehicles and equipment indoors or, if stored outdoors, use drip pans and absorbents;
  - Use spill/overflow protection equipment;
  - Perform all vehicle and/or equipment cleaning operations indoors, under cover, or in bermed areas that prevent runoff and run-on and also that capture any overspray; and
  - Drain fluids from equipment and vehicles that will be decommissioned, and, for any equipment and vehicles that will remain unused for extended periods of time, inspect at least monthly for leaks.
2. Good Housekeeping. You must keep clean all exposed areas that are potential sources of pollutants. You must perform good housekeeping measures in order to minimize pollutant discharges, including the following:
  - Sweep or vacuum at regular intervals or, alternatively, wash down the area and collect or treat, and properly dispose of the washdown water;
  - Store materials in appropriate containers;
  - Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids and could leak, ensure that discharges have a control (e.g., secondary containment, treatment). Consistent with Part 2.3, this permit does not authorize dry weather discharges from dumpsters or roll off boxes;\* and

- Minimize the potential for waste, garbage, and floatable debris to be discharged by keeping exposed areas free of such materials, or by intercepting them before they are discharged.
3. Maintenance. You must maintain all control measures that are used to achieve the effluent limits in this permit in effective operating condition, as well as all industrial equipment and systems, in order to minimize pollutant discharges. This includes:
- Performing inspections and preventive maintenance of stormwater drainage, source controls, treatment systems, and plant equipment and systems that could fail and result in contamination of stormwater.
  - Diligently maintaining non-structural control measures (e.g., keep spill response supplies available, personnel appropriately trained).
  - Cleaning catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keeping the debris surface at least six inches below the lowest outlet pipe.

If you find that your control measures are in need of routine maintenance, you must conduct the necessary maintenance immediately in order to minimize pollutant discharges. If you find that your control measures need to be repaired or replaced, you must immediately take all reasonable steps to prevent or minimize the discharge of pollutants until the final repair or replacement is implemented, including cleaning up any contaminated surfaces so that the material will not be discharged during subsequent storm events. Final repairs/replacement of stormwater controls should be completed as soon as feasible but must be no later than the timeframe established in Part 7.6 for corrective actions, i.e., within 14 days or, if that is infeasible, within 45 days. If the completion of stormwater control repairs/replacement will exceed the 45-day timeframe, you may take the minimum additional time necessary to complete the maintenance, provided that you notify the Secretary of your intention to exceed 45 days, and document in your SWPPP your rationale for your modified maintenance timeframe. If a control measure was never installed, was installed incorrectly, or not in accordance with Part 7.4 and Part 7.10, or is not being properly operated or maintained, you must conduct corrective action as specified in Part 7.6.

Note: In this context, the term “immediately” requires you to, on the same day you identify that a control measure needs to be maintained, take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational. However, if a problem is identified at a time in the work day when it is too late to take action, the initiation of action must begin no later than

the following work day. “All reasonable steps” means that the permittee has undertaken initial actions to assess and address the condition causing the corrective action, including, for example, cleaning up any exposed materials that may be discharged in a storm event (e.g., through sweeping, vacuuming) or making arrangements (i.e., scheduling) for a new BMP to be installed at a later date. “All reasonable steps” for purposes of complying with Part 7.6.B “Conditions Requiring SWPPP Review to Determine if Modifications Are Necessary,” when you conclude a corrective action is, in fact, not necessary, could include documenting why a corrective action is unnecessary.

4. Spill Prevention and Response Procedures. You must minimize the potential for leaks, spills, and other releases that may be exposed to stormwater and develop plans for effective response to such spills if or when they occur in order to minimize pollutant discharges. You must conduct spill prevention and response measures, including the following:
  - Plainly label containers (e.g., “Used Oil,” “Spent Solvents,” “Fertilizers and Pesticides,”) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur;
  - Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas;
  - Develop training on the procedures for expeditiously stopping, containing, and cleaning up leaks, spills, and other releases. As appropriate, execute such procedures as soon as possible;
  - Keep spill kits on-site, located near areas where spills may occur or where a rapid response can be made; and
  - Notify appropriate facility personnel when a leak, spill, or other release occurs.

Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 C.F.R. Part 110, 40 C.F.R. Part 117, or 40 C.F.R. Part 302, occurs during a 24-hour period, you must provide notice in accordance with the requirements of 40 C.F.R. Part 110, 40 C.F.R. Part 117, and 40 C.F.R. Part 302 as soon as you have knowledge of the discharge. Call the Waste Management Division at (802) 828-1138, Monday through Friday, 7:45 a.m. to 4:30 p.m. or (800) 641-5005, 24 hours/day. The contact information for notifying the Waste Management Division shall be readily accessible and available.

5. Erosion and Sediment Controls. You must minimize erosion by stabilizing exposed soils at your facility in order to minimize pollutant discharges and placing flow velocity dissipation devices at discharge locations to minimize channel and streambank erosion and scour in the immediate vicinity of discharge points. You must also use structural and non-structural control measures to minimize the discharge of sediment. If you use polymers or other chemical treatments as part of your controls, you must identify the polymers and chemicals used and the purpose in your SWPPP. In selecting, designing, installing, and implementing appropriate control measures, you are encouraged to consult with Vermont's erosion prevention and sediment control manuals: The Low Risk Site Handbook and The Vermont Erosion Prevention and Sediment Control Field Guide.

Construction activities that disturb greater than one acre of land may be required to obtain coverage under a General Permit for Stormwater Runoff from Construction Sites (General Permits 3-9020, or its replacement) or obtain an individual construction stormwater permit.

6. Management of Runoff. You must divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff to minimize pollutants in your discharges. In selecting, designing, installing, and implementing appropriate control measures, you are encouraged to consult with Vermont and EPA's internet-based resources relating to runoff management, including:
  - The sector-specific Industrial Stormwater Fact Sheet Series at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities#factsheets>,
  - The Vermont Stormwater Management Manual and Small Sites Guide to Stormwater Management at <http://dec.vermont.gov/watershed/stormwater>, and
  - Vermont's Low Impact Development website at <http://dec.vermont.gov/watershed/stormwater/green-infrastructure>.
7. Salt Storage Piles or Piles Containing Salt. You must enclose or cover storage piles of salt, or piles containing salt, used for deicing or other commercial or industrial purposes, including maintenance of paved surfaces, in order to minimize pollutant discharges. You must implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile.
8. Employee Training. You must train all employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the

conditions of this permit (e.g., inspectors, maintenance personnel), including all members of your stormwater pollution prevention team. You must ensure the following personnel understand the requirements of this permit and their specific responsibilities with respect to those requirements:

- Personnel who are responsible for the design, installation, maintenance, or repair of controls, including pollution prevention measures;
- Personnel responsible for the storage and handling of chemicals and materials that could become contaminants in stormwater discharges;
- Personnel who are responsible for conducting and documenting monitoring and inspections; and
- Personnel who are responsible for taking and documenting corrective actions.

Personnel must be trained in at least the following, if related to the scope of their job duties (e.g., only personnel responsible for conducting inspections need to understand how to conduct inspections):

- An overview of what is in the SWPPP;
- Spill response procedures, good housekeeping, maintenance requirements, and material management practices;
- The location of all controls on the site required by this permit, and how they are to be maintained;
- The proper procedures to follow with respect to the permit's pollution prevention requirements; and
- When and how to conduct inspections, record applicable findings, and take corrective actions.

9. Non-Stormwater Discharges. You must evaluate for the presence of non-stormwater discharges. Any non-stormwater discharges not explicitly authorized in Part 2.2.B or covered by another NPDES permit must be eliminated. This includes vehicle and equipment/tank wash water (except for those authorized in Part 7.10 at mineral mining facilities). If not covered under a separate NPDES permit, wastewater, wash water, and any other unauthorized non-stormwater must be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or otherwise disposed of appropriately.

10. Dust Generation and Vehicle Tracking of Industrial Materials. You must minimize generation of dust and off-site tracking of raw, final, or waste materials in order to minimize pollutant discharges.

### C. Numeric Effluent Limitations Based on Effluent Limitations Guidelines

If you are in an industrial category subject to one of the effluent limitations guidelines identified in Part 7.8.B.2, you must meet the effluent limits referenced below:

<b>Applicable Effluent Limitations Guidelines</b>		
<b>Regulated Activity</b>	<b>40 CFR Part/Subpart</b>	<b>Effluent Limit</b>
Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities	Part 436, Subparts B, C, or D	See Part 7.10.A.7

### D. Water Quality Based Effluent Limitations

Your discharge must be controlled as necessary to meet the requirements of the Vermont Water Quality Standards and other requirements of Part 4.

The Secretary expects that compliance with the requirements of this Part 7 will control discharges as necessary to meet applicable water quality standards. If at any time you become aware, or the Secretary determines, that your discharge does not meet applicable water quality standards, you must take corrective action(s) as required in Part 7.6 and document the corrective actions as required.

The Secretary may also require that you undertake additional control measures (to meet the narrative water quality-based effluent limit above) on a site-specific basis, or require you to obtain coverage under an individual permit, if information in your NOI, required reports, or from other sources indicates that your discharges are not controlled as necessary to meet applicable water quality standards. You must implement all measures necessary to be consistent with an available wasteload allocation in an approved TMDL.

## 7.5 Inspections

### A. Routine Facility Inspections

During normal facility operating hours you must conduct inspections of areas of the facility covered by the requirements in this permit, including the following:

- Areas where industrial materials or activities are exposed to stormwater;



- Areas identified in the SWPPP and those that are potential pollutant sources;
- Areas where spills and leaks have occurred in the past three years;
- Discharge points; and
- Control measures used to comply with the effluent limits contained in this permit.

Inspections must be conducted at least quarterly (i.e., once each calendar quarter), or in some instances more frequently (e.g., monthly). Increased frequency may be appropriate for some types of equipment, processes, and stormwater control measures, or areas of the facility with significant activities and materials exposed to stormwater. At least once each calendar year, the routine inspection must be conducted during a period when a stormwater discharge is occurring.

Inspections must be performed by qualified personnel with at least one member of your stormwater pollution prevention team participating.

Inspectors must consider the results of visual and analytical monitoring (if any) for the past year when planning and conducting inspections.

During the inspection you must examine or look out for the following:

- Industrial materials, residue, or trash that may have or could come into contact with stormwater;
- Leaks or spills from industrial equipment, drums, tanks, and other containers;
- Offsite tracking of industrial or waste materials, or sediment where vehicles enter or exit the site;
- Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas;
- Control measures needing replacement, maintenance, or repair.

During an inspection occurring during a stormwater event or discharge, control measures implemented to comply with effluent limits must be observed to ensure they are functioning correctly. Discharge points must also be observed during this inspection. If such discharge locations are inaccessible, nearby downstream locations must be inspected.

## B. Exceptions to Routine Facility Inspections for Inactive and Unstaffed Sites

The requirement to conduct facility inspections on a routine basis does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater. Such a facility is only required to conduct an annual site inspection in accordance with Part 7.5.A. To invoke this exception, you must indicate that your facility is inactive and unstaffed on your NOI. If you are already covered under the permit and your facility has changed from active to inactive and unstaffed, you must amend your authorization. You must also include a statement in your SWPPP indicating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to stormwater, in accordance with the substantive requirements in 40 C.F.R. § 122.26(g)(4)(iii). The statement must be signed and certified in accordance with Part 11.

If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active or staffed, this exception no longer applies and you must immediately resume routine facility inspections. If you are not qualified for this exception at the time you become authorized under this permit, but during the permit term you become qualified because your facility becomes inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, you must include the same signed and certified statement as above and retain it with your records.

Inactive and unstaffed Non-Metallic Mineral Mining and Dressing facilities are not required to meet the “no industrial materials or activities exposed to stormwater” standard to be eligible for this exception from routine inspections.

## C. Routine Facility Inspection Documentation

You must document the findings of your facility inspections and maintain this report with your SWPPP. Do not submit your routine facility inspection report to the Secretary, unless specifically requested to do so. However, you must summarize your findings in the annual report. Document all findings, including but not limited to, the following information:

1. The inspection date and time;
2. The name(s) and signature(s) of the inspector(s);
3. Weather information;
4. All observations relating to the implementation of control measures at the facility, including:
  - A description of any discharges occurring at the time of the inspection;

- Any previously unidentified discharges from and pollutants at the site;
  - Any evidence of, or the potential for, pollutants entering the drainage system;
  - Observations regarding the physical condition of and around all outfalls, including any flow dissipation devices, and evidence of pollutants in discharges or the receiving water;
  - Any control measures needing maintenance, repairs, or replacement;
5. Any additional control measures needed to comply with the permit requirements;
  6. Any incidents of noncompliance; and
  7. A statement, signed and certified in accordance with Part 11.
  8. Any corrective action required as a result of a routine facility inspection must be performed consistent with Part 7.6 of this permit.
  9. If you performed a discharge visual assessment required in Part 7.5 during your facility inspection, you may include the results of the assessment with the required report as long as all components of both types of inspections are included in the report.

#### D. Quarterly Visual Assessment of Stormwater Discharges

##### 1. Quarterly Visual Assessment Procedures

Once each quarter for the entire permit term, you must collect a stormwater sample from each outfall (except as noted in Part 7.5.D.3) and conduct a visual assessment of each of these samples. These samples are not required to be collected consistent with 40 C.F.R. Part 136 procedures but must be collected in such a manner that the samples are representative of the stormwater discharge. Guidance on monitoring is available at [https://www.epa.gov/sites/production/files/2015-11/documents/msgp\\_monitoring\\_guide.pdf](https://www.epa.gov/sites/production/files/2015-11/documents/msgp_monitoring_guide.pdf)

The visual assessment must be made:

- Of a sample in a clean, colorless glass or plastic container, and examined in a well-lit area;
- On samples collected within the first 30 minutes of an actual discharge from a storm event. If it is not possible to collect the

sample within the first 30 minutes of discharge, the sample must be collected as soon as practicable after the first 30 minutes and you must document why it was not possible to take the sample within the first 30 minutes. In the case of snowmelt, samples must be taken during a period with a measurable discharge from your site; and

- For storm events, on discharges that occur at least 72 hours (three days) from the previous discharge. The 72-hour (three-day) storm interval does not apply if you document that less than a 72-hour (three-day) interval is representative for local storm events during the sampling period.

You must visually inspect or observe the sample for the following water quality characteristics:

- Color;
- Odor;
- Clarity (diminished);
- Floating solids;
- Settled solids;
- Suspended solids;
- Foam;
- Oil sheen; and
- Other obvious indicators of stormwater pollution.

Whenever the visual assessment shows evidence of stormwater pollution, you must initiate the corrective action procedures in Part 7.6.

## 2. Quarterly Visual Assessment Documentation

You must document the results of your visual assessments and maintain this documentation onsite with your SWPPP as required in Part 7.7.E. You are not required to submit your visual assessment findings to the Secretary, unless specifically requested to do so. However, you must summarize your findings in the annual report per Part 7.9. Your documentation of the visual assessment must include:

- Sample location(s)
- Sample collection date and time and visual assessment date and time for each sample;
- Personnel collecting the sample and performing visual assessment, and their signatures;

- Nature of the discharge (i.e., runoff or snowmelt);
- Results of observations of the stormwater discharge;
- Probable sources of any observed stormwater contamination,
- If applicable, why it was not possible to take samples within the first 30 minutes; and
- A statement, signed and certified in accordance with Part 11.

Any corrective action required as a result of a quarterly visual assessment must be performed consistent with Part 7.6 of this permit.

### 3. Exceptions to Quarterly Visual Assessments

*Adverse Weather Conditions:* When adverse weather conditions prevent the collection of samples during the quarter, you must take a substitute sample during the next qualifying storm event. Documentation of the rationale for no visual assessment for the quarter must be included with your SWPPP records as described in Part 7.7.E. Adverse conditions are those that are dangerous or create inaccessibility for personnel, such as local flooding, high winds, electrical storms, or situations that otherwise make sampling impractical, such as extended frozen conditions.

*Climates with Irregular Stormwater Runoff:* If your facility is located in an area where limited rainfall occurs during many parts of the year (e.g., arid or semi-arid climate) or in an area where freezing conditions exist that prevent runoff from occurring for extended periods, then your samples for the quarterly visual assessments may be distributed during seasons when precipitation runoff occurs.

*Areas Subject to Snow:* In areas subject to snow, at least one quarterly visual assessment must capture snowmelt discharge, as described in Part 7.8.A.3, taking into account the exception described above for climates with irregular stormwater runoff.

*Inactive and Unstaffed Sites:* The requirement for a quarterly visual assessment does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater. To invoke this exception, you must maintain a statement in your SWPPP per Part 7.5.B. indicating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to precipitation, in accordance with the substantive requirements in 40 C.F.R. § 122.26(g)(4)(iii). The statement must be signed and certified in accordance with Part 11. If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active or staffed, this exception no longer applies and you must immediately resume quarterly visual assessments. If you are not qualified for this exception at the time you are authorized under this permit, but during the permit term you become qualified because your facility

becomes inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then you must include the same signed and certified statement as above and retain it with your records pursuant to Part 7.7.E.

Inactive and unstaffed Non-Metallic Mineral Mining and Dressing facilities are not required to meet the “no industrial materials or activities exposed to stormwater” standard to be eligible for this exception from quarterly visual assessments, consistent with the requirements established in Part 7.10.

*Substantially Identical Outfalls:* If your facility has two or more outfalls that discharge substantially identical effluents, as documented in Part 7.7.B.5, you may conduct quarterly visual assessments of the discharge at just one of the outfalls and report that the results also apply to the substantially identical outfall(s) provided that you perform visual assessments on a rotating basis of each substantially identical outfall throughout the period of your coverage under this permit.

If stormwater contamination is identified through visual assessment performed at a substantially identical outfall, you must assess and modify your control measures as appropriate for each outfall represented by the monitored outfall.

## **7.6 Corrective Actions**

### **A. Conditions Requiring SWPPP Review and Revision to Ensure Effluent Limits are Met**

When any of the following conditions occur or are detected during an inspection, monitoring, or other means, or the Secretary or the operator of an MS4 through which you discharge informs you that any of the following conditions have occurred, you must review and revise, as appropriate, your SWPPP (e.g., sources of pollution; spill and leak procedures; non-stormwater discharges; the selection, design, installation, and implementation of your control measures) so that this permit’s effluent limits are met and pollutant discharges are minimized:

1. An unauthorized release or discharge (e.g., spill, leak, or discharge of non-stormwater not authorized by this or another NPDES permit to a water of the State) occurs at your facility.
2. A discharge violates a numeric effluent limit listed in your Part 7.10 sector-specific requirements.
3. Your control measures are not stringent enough for the discharge to meet applicable water quality standards or the non-numeric effluent limits in this permit.

4. A required control measure was never installed, was installed incorrectly, or not in accordance with Parts 7.4 and 7.10, or is not being properly operated or maintained.
5. Whenever a visual assessment shows evidence of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam).

#### B. Conditions Requiring Review to Determine if Modifications Are Necessary

If any of the following conditions occur, you must review your SWPPP (e.g., sources of pollution, spill and leak procedures, non-stormwater discharges, selection, design, installation, and implementation of your control measures) to determine if modifications are necessary to meet the effluent limits in this permit:

1. Construction or a change in design, operation, or maintenance at your facility that significantly changes the nature of pollutants discharged in stormwater from your facility, or significantly increases the quantity of pollutants discharged.
2. The average of four quarterly sampling results exceeds an applicable benchmark (see Part 7.8.B.1). If less than four benchmark samples have been taken, but the results are such that an exceedance of the four quarter average is mathematically certain (i.e., if the sum of quarterly sample results to date is more than four times the benchmark level) this is considered a benchmark exceedance, triggering this review.

Note: A benchmark exceedance does not trigger a corrective action if you determine that the exceedance is solely attributable to natural background sources, or if you make a finding that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice (see Part 7.8.B.1).

Note: When run-on to your facility causes a benchmark exceedance, in addition to reviewing and revising, as appropriate, your SWPPP, you should notify the other operators contributing run-on to your discharges to abate their pollutant contribution. Where the other operators fail to take action to address the stormwater run-on, you should contact the Secretary.

#### C. Corrective Action Deadlines

##### 1. Immediate Actions

If corrective action is needed, you must immediately take all reasonable steps necessary to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational, including cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events.

Note: In this context, the term “immediately” requires you to, on the same day a condition requiring corrective action is found, take all reasonable steps to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational. However, if a problem is identified at a time in the work day when it is too late to initiate corrective action, the initiation of corrective action must begin no later than the following work day. “All reasonable steps” means that the permittee has undertaken initial actions to assess and address the condition causing the corrective action, including, for example, cleaning up any exposed materials that may be discharged in a storm event (e.g., through sweeping, vacuuming) or making arrangements (i.e., scheduling) for a new BMP to be installed at a later date. “All reasonable steps” for purposes of complying with Part 7.6.B “Conditions Requiring SWPPP Review to Determine if Modifications Are Necessary,” when you conclude a corrective action is, in fact, not necessary, could include documenting why a corrective action is unnecessary.

## 2. Subsequent Actions

If you determine that additional actions are necessary beyond those implemented pursuant to Part 7.6.C.1, you must complete the corrective actions (e.g., install a new or modified control and make it operational, complete the repair) before the next storm event if possible, and within 14 calendar days from the time of discovery of the corrective action condition. If it is infeasible to complete the corrective action within 14 calendar days, you must document why it is infeasible to complete the corrective action within the 14-day timeframe. You must also identify your schedule for completing the work, which must be done as soon as practicable after the 14-day timeframe but no longer than 45 days after discovery. If the completion of corrective action will exceed the 45-day timeframe, you may take the minimum additional time necessary to complete the corrective action, provided that you notify the Secretary of your intention to exceed 45 days, your rationale for an extension, and a completion date, which you must also include in your corrective action documentation (see Part 7.6.D). Where your corrective actions result in changes to any of the controls or procedures documented in your SWPPP, you must modify your SWPPP accordingly within 14 calendar days of completing corrective action work.

These time intervals are not grace periods, but are schedules considered reasonable for documenting your findings and for making repairs and improvements. They are included in this permit to ensure that the conditions prompting the need for these repairs and improvements do not persist indefinitely.



#### D. Corrective Action Documentation

You must document the existence of any of the conditions listed in Parts 7.6.A or 7.6.B within 24 hours of becoming aware of such condition. You are not required to submit your corrective action documentation to the Secretary, unless specifically requested to do so. However, you must summarize your findings in the annual report per Part 7.9. Include the following information in your documentation:

1. Description of the condition triggering the need for corrective action review. For any spills or leaks, include the following information: a description of the incident including material, date/time, amount, location, and reason for spill, and any leaks, spills, or other releases that resulted in discharges of pollutants to waters of State, through stormwater or otherwise;
2. Date the condition was identified;
3. Description of immediate actions taken pursuant to Part 7.6.C.1 to minimize or prevent the discharge of pollutants. For any spills or leaks, include response actions, the date/time clean-up completed, notifications made, and staff involved. Also include any measures taken to prevent the reoccurrence of such releases; and
4. A statement, signed and certified in accordance Part 11.

You must also document the corrective actions taken or to be taken as a result of the conditions listed in Part 7.6.A and 7.6.B (or, for triggering events in Part 7.6.B where you determine that corrective action is not necessary, the basis for this determination) within 14 days from the time of discovery of any of those conditions. Provide the dates when each corrective action was initiated and completed (or is expected to be completed). If applicable, document why it is infeasible to complete the necessary installations or repairs within the 14-day timeframe and document your schedule for installing the controls and making them operational as soon as practicable after the 14-day timeframe. If you notified the Secretary regarding an extension of the 45-day timeframe, you must document your rationale for an extension.

#### E. Effect of Corrective Action

If the event triggering the review is a permit violation (e.g., non-compliance with an effluent limit), correcting it does not remove the original violation. Additionally, failing to take corrective action in accordance with this section is an additional permit violation. The Secretary will consider the appropriateness and promptness of corrective action in determining enforcement responses to permit violations.

#### F. Substantially Identical Outfalls

If the event triggering corrective action is associated with an outfall that had been identified as a “substantially identical outfall” your review must assess the need for corrective action for all related substantially identical outfalls. Any necessary changes to control measures that affect these other outfalls must also be made before the next storm event if possible, or as soon as practicable following that storm event. Any corrective actions must be conducted within the timeframes set forth in Part 7.6.C.

### 7.7 Stormwater Pollution Prevention Plan (SWPPP)

You must prepare a SWPPP for each VTrans facility subject to this Part 7 before submitting your NOI for permit coverage. If you previously prepared a SWPPP for coverage under the MSGP, you must review and update the SWPPP to implement all provisions of this permit prior to submitting your NOI. The SWPPP does not contain effluent limitations; such limitations are contained in Parts 7.4 and 7.10. The SWPPP is intended to document the selection, design, and installation of control measures to meet the permit's effluent limits. As distinct from the SWPPP, the additional documentation requirements (see Part 7.7.E) are intended to document the implementation (including inspection, maintenance, monitoring, and corrective action) of the permit requirements.

#### A. Person(s) Responsible for SWPPP Preparation

The SWPPP shall be prepared in accordance with good engineering practices and to industry standards. The SWPPP may be developed by either a person on your staff or a third party you hire, but it must be developed by a “qualified person” and must be certified per the signature requirements in Part 11. If the Secretary concludes that the SWPPP is not in compliance with Part 7.7.B of this permit, the Secretary may require the SWPPP to be reviewed, amended as necessary, and certified by a Professional Engineer, or for Non-Metallic Mineral Mining and Dressing facilities, by a Professional Geologist, with the education and experience necessary to prepare an adequate SWPPP.

Note: A “qualified person” is a person knowledgeable in the principles and practices of industrial stormwater controls and pollution prevention, and possesses the education and ability to assess conditions at the industrial facility that could impact stormwater quality, and the education and ability to assess the effectiveness of stormwater controls selected and installed to meet the requirements of the permit.

#### B. Contents of Your SWPPP

For facilities and activities requiring coverage under Part 7, each facility's SWPPP must contain all of the following elements, pursuant to the requirements of this Part 7.7.B:

- Stormwater pollution prevention team;

- Site description;
- Summary of potential pollutant sources;
- Description of control measures;
- Schedules and procedures;
- Documentation to support eligibility considerations under other federal laws; and
- Signature requirements.

Where your SWPPP refers to procedures in other facility documents, such as a Spill Prevention, Control and Countermeasure (SPCC) Plan or an Environmental Management System (EMS), copies of the relevant portions of those documents must be kept with your SWPPP.

#### 1. Stormwater Pollution Prevention Team

You must identify the staff members (by name or title) that comprise the facility's stormwater pollution prevention team as well as their individual responsibilities. Your stormwater pollution prevention team is responsible for overseeing development of the SWPPP, any modifications to it, and for implementing and maintaining control measures and taking corrective actions when required. Each member of the stormwater pollution prevention team must have ready access to either an electronic or paper copy of applicable portions of this permit, the most updated copy of your SWPPP, and other relevant documents or information that must be kept with the SWPPP.

#### 2. Site Description

Your SWPPP must include the following:

- *Activities at the Facility.* Provide a description of the nature of the industrial activities at your facility.
- *General location map.* Provide a general location map (e.g., U.S. Geological Survey (USGS) quadrangle map) with enough detail to identify the location of your facility and all receiving waters for your stormwater discharges.
- *Site map.* Provide a map showing:
  - Boundaries of the property and the size of the property in acres;
  - Location and extent of significant structures and impervious surfaces;
  - Directions of stormwater flow (use arrows);
  - Locations of all stormwater control measures;

- Locations of all receiving waters, including wetlands, in the immediate vicinity of your facility. Indicate which waterbodies are listed as impaired;
- Locations of all stormwater conveyances including ditches, pipes, and swales;
- Locations of potential pollutant sources identified under Part 7.7.B.3;
- Locations where significant spills or leaks identified under Part 7.7.B.3 have occurred;
- Locations of all stormwater monitoring points;
- Locations of stormwater inlets and outfalls, with a unique identification code for each outfall (e.g., Outfall 001, 002), indicating if you are treating one or more outfalls as “substantially identical,” and an approximate outline of the areas draining to each outfall;
- If applicable, MS4s and where your stormwater discharges to them;
- Areas of designated critical habitat for endangered or threatened species, if applicable.
- Locations of the following activities where such activities are exposed to precipitation:
  - fueling stations;
  - vehicle and equipment maintenance or cleaning areas;
  - loading/unloading areas;
  - locations used for the treatment, storage, or disposal of wastes;
  - liquid storage tanks;
  - processing and storage areas;
  - immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility;
  - transfer areas for substances in bulk;
  - machinery;
  - locations and sources of run-on to your site from adjacent property that contains significant quantities of pollutants.

### 3. Summary of Potential Pollutant Sources

You must describe areas at your facility where industrial materials or activities are exposed to stormwater or from which allowable non-stormwater discharges originate. Industrial materials or activities include: material handling equipment or activities; industrial machinery; raw materials; industrial production and processes; and intermediate products, by-products, final products, and waste products. Material handling activities include: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product. For structures located in areas of industrial activity, you must be aware that the structures themselves are potential sources of pollutants. This could occur, for example, when metals such as aluminum or copper are leached from the structures as a result of acid rain.

For each area identified, the description must include:

- a. **Activities in the area.** A list of the industrial activities exposed to stormwater (e.g., material storage; equipment fueling, maintenance, and cleaning; cutting steel beams).
- b. **Pollutants.** A list of the pollutant(s) or pollutant constituents (e.g., crankcase oil, zinc, sulfuric acid, cleaning solvents) associated with each identified activity, which could be exposed to rainfall or snowmelt and could be discharged from your facility. The pollutant list must include all significant materials that have been handled, treated, stored, or disposed, and that have been exposed to stormwater in the three years prior to the date you prepare or amend your SWPPP.
- c. **Spills and Leaks.** You must document where potential spills and leaks could occur that could contribute pollutants to stormwater discharges, and the corresponding outfall(s) that would be affected by such spills and leaks. You must document all significant spills and leaks of oil or toxic or hazardous substances that actually occurred at exposed areas, or that drained to a stormwater conveyance, in the three years prior to the date you prepare or amend your SWPPP.

Note: Significant spills and leaks include releases of oil or hazardous substances in excess of quantities that are reportable under CWA section 311 (see 40 C.F.R. § 110.6 and 40 C.F.R. § 117.21) or section 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9602.

- d. **Unauthorized Non-Stormwater Discharges.** You must document that you have evaluated for the presence of unauthorized non-stormwater discharges.

Documentation of your evaluation must include:

- The date of the evaluation;
  - A description of the evaluation criteria used;
  - A list of the outfalls or onsite drainage points that were directly observed during the evaluation;
  - The action(s) taken, such as a list of control measures used to eliminate unauthorized discharge(s), or documentation that a separate NPDES permit was obtained. For example, a floor drain was sealed, a sink drain was re-routed to sanitary, or a NPDES permit application was submitted for an unauthorized cooling water discharge.
- e. **Salt Storage.** You must document the location of any storage piles containing salt used for deicing or other commercial or industrial purposes.
- f. **Sampling Data.** Existing dischargers must summarize all stormwater discharge sampling data collected at the facility during the previous permit term. The summary shall include a narrative description (and may include data tables/figures) that adequately summarizes the collected sampling data to support identification of potential pollution sources at your facility. New dischargers and new sources must provide a summary of any available stormwater runoff data they may have.
4. Description of Control Measures to Meet Technology-Based and Water Quality-Based Effluent Limits

You must document the location and type of control measures you have specifically chosen or designed to comply with:

- Non-numeric technology-based effluent limits in Part 7.4.B;
- Applicable numeric effluent limitations guidelines-based limits in Part 7.4.C and Part 7.10;
- Water quality-based effluent limits in Part 4;
- Any additional measures that formed the basis of eligibility regarding threatened and endangered species and federal CERCLA Site requirements;
- Applicable effluent limits in Parts 7.10.
- Regarding your control measures, you must also document, as appropriate:
  - How you addressed the selection and design considerations in Part 7.4;

- How they address the pollutant sources identified in Part 7.7.B.3.

Effluent limit requirements in Part 7.4.B that do not involve the site-specific selection of a control measure or are specific activity requirements (e.g., “cleaning catch basins when the depth of debris reaches two-thirds (2/3) of the sump depth and keeping the debris surface at least six inches below the lowest outlet pipe”) are marked with an asterisk (\*). For the requirements marked with an asterisk, you may include extra information, or you may just “cut-and-paste” these effluent limits verbatim into your SWPPP without providing additional documentation.

## 5. Schedules and Procedures

- a. Pertaining to Control Measures Used to Comply with the Effluent Limits in Part 7.4. The following must be documented in your SWPPP:
  - Good Housekeeping – A schedule or the convention used for determining when pickup and disposal of waste materials occurs. Also provide a schedule for routine inspections for leaks and conditions of drums, tanks, and containers.
  - Maintenance – Preventative maintenance procedures, including regular inspections, testing, maintenance, and repair of all control measures to avoid situations that may result in leaks, spills, and other releases, and any back-up practices in place should a runoff event occur while a control measure is off-line. The SWPPP shall include the schedule or frequency for maintaining all control measures used to comply with the effluent limits in Part 7.4;
  - Spill Prevention and Response Procedures – Procedures for preventing and responding to spills and leaks, including notification procedures. For preventing spills, include in your SWPPP the control measures for material handling and storage, and the procedures for preventing spills that can contaminate stormwater. Also specify cleanup equipment, procedures and spill logs, as appropriate, in the event of spills. You may reference the existence of other plans for Spill Prevention Control and Countermeasure (SPCC) developed for the facility under section 311 of the CWA or BMP programs otherwise required by an NPDES permit for the facility, provided that you keep a copy of that other plan onsite and make it available for review consistent with Part 7.7.D;
  - Erosion and Sediment Controls – If you use polymers and/or other chemical treatments as part of your controls, you must identify the polymers and chemicals used and the purpose;

- Employee Training – The elements of your employee training plan shall include all the requirements set forth in Part 7.4.B.8, and also the following:
  - The content of the training;
  - The frequency/schedule of training for employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of this permit; and
  - A log of the dates on which specific employees received training.
- b. Pertaining to Inspections and Assessments. You must document in your SWPPP your procedures for performing, as appropriate, the types of inspections specified by this permit, including:
  - Routine facility inspections; and
  - Quarterly visual assessment of stormwater discharges.

For each type of inspection performed, your SWPPP must identify:

- Person(s) or positions of person(s) responsible for inspection;
- Schedules for conducting inspections, including tentative schedules for facilities in climates with irregular stormwater runoff discharges; and
- Specific items to be covered by the inspection, including schedules for specific outfalls.

If you are invoking the exception for inactive and unstaffed sites relating to routine facility inspections and quarterly visual assessments, you must include in your SWPPP the information to support this claim as required by Parts 7.5.B and 7.5.D.3.

- c. Pertaining to Monitoring. You must document in your SWPPP procedures for conducting the five types of analytical monitoring specified by this permit, where applicable to your facility, including:
  - Benchmark monitoring;
  - Effluent limitations guidelines monitoring;
  - State-specific monitoring;
  - Impaired waters monitoring;
  - Other monitoring as required by the Secretary;

For each type of monitoring, your SWPPP must document:



- Locations where samples are collected, including any determination that two or more outfalls are substantially identical;
- Parameters for sampling and the frequency of sampling for each parameter;
- Schedules for monitoring at your facility, including schedules for alternate monitoring periods for climates with irregular stormwater runoff;
- Any numeric control values (benchmarks, effluent limitations guidelines, TMDL- related requirements, or other requirements) applicable to discharges from each outfall;
- Procedures (e.g., responsible staff, logistics, laboratory to be used) for gathering storm event data.

If you are invoking the exception for inactive and unstaffed sites for benchmark monitoring or impaired waters monitoring, you must include in your SWPPP the information to support this claim as required by Parts 7.7.E and 7.8.B.

You must document the following in your SWPPP if you plan to use the substantially identical outfall exception for your quarterly visual assessment requirements in Part 7.5.D.3 or your benchmark or impaired waters monitoring requirements in Parts 7.8.B.1 and 7.8.B.3:

- Location of each of the substantially identical outfalls;
- Description of the general industrial activities conducted in the drainage area of each outfall;
- Description of the control measures implemented in the drainage area of each outfall;
- Description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges;
- An estimate of the runoff coefficient of the drainage areas (low = under 40%; medium = 40 to 65%; high = above 65%);
- Why the outfalls are expected to discharge substantially identical effluents.

6. Signature Requirements. You must sign and date your SWPPP in accordance with Part 11.

#### C. Required SWPPP Modifications

You must modify your SWPPP based on the corrective actions and deadlines required under Part 7.6.C and that you documented under Part 7.6.D. SWPPP modifications must be signed and dated in accordance with Part 11.

#### D. SWPPP Availability

You must retain a complete copy of your current SWPPP required by this permit at the facility in an accessible format. A complete SWPPP includes any documents incorporated by reference and all documentation supporting your permit eligibility as well as your signed and dated certification page. Regardless of the format, the SWPPP must be immediately available to facility employees, EPA, the Secretary, the operator of an MS4 into which you discharge, and other government representatives at the time of an onsite inspection. Your current SWPPP must also be made available to the public; to do so, you must comply with the following posting requirement:

##### 1. SWPPP Posting on the Internet.

Provide a URL in your NOI where your SWPPP can be found, and maintain your current SWPPP at this URL, to comply with the public availability requirements for the SWPPP. To remain current, you must post any SWPPP modifications, records, and other reporting elements required for the previous year at the same URL as the main body of the SWPPP. The SWPPP update shall be no later than 45 days after conducting the final routine facility inspection for the year.

#### E. Additional Documentation Requirements

You are required to keep the following inspection, monitoring, and certification records with your SWPPP that together keep your records complete and up-to-date, and demonstrate your full compliance with the conditions of this permit:

- A copy of the NOI submitted to the Secretary along with any correspondence exchanged between you and the Secretary specific to coverage under this permit;
- A copy of your permit authorization;
- A copy of this permit (an electronic copy easily available to SWPPP personnel is also acceptable);
- Documentation of maintenance and repairs of control measures, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair/replacement, and for repairs, date(s) that the control measure(s) returned to full function, and the justification for any extended maintenance/repair schedules;

- All inspection reports, including the Routine Facility Inspection Reports and Quarterly Visual Assessment Reports;
- Description of any deviations from the schedule for visual assessments and/or monitoring, and the reason for the deviations (e.g., adverse weather or it was impracticable to collect samples within the first 30 minutes of a measurable storm event);
- Corrective action documentation;
- Documentation of any benchmark exceedances and the type of response to the exceedance you employed, including:
  - the corrective action taken;
  - a finding that the exceedance was due to natural background pollutant levels;
  - a determination from the Secretary that benchmark monitoring can be discontinued because the exceedance was due to run-on; or
  - a finding that no further pollutant reductions were technologically available and economically practicable and achievable in light of best industry practice.
- Documentation to support any determination that pollutants of concern are not expected to be present above natural background levels if you discharge directly to impaired waters, and that such pollutants were not detected in your discharge or were solely attributable to natural background sources; and
- Documentation to support your claim that your facility has changed its status from active to inactive and unstaffed with respect to the requirements to conduct routine facility inspections, quarterly visual assessments, benchmark monitoring, and/or impaired waters monitoring.

## **7.8 Monitoring**

You must collect and analyze stormwater samples and document monitoring activities consistent with procedures described in this Part and any additional sector-specific requirements in Part 7.10. Refer to Part 7.9 for reporting and recordkeeping requirements.

### **A. Monitoring Procedures**

#### **1. Monitored Outfalls**

Applicable monitoring requirements apply to each outfall authorized by this permit, except as otherwise exempt from monitoring as a “substantially

identical outfall.” If your facility has two or more outfalls that you believe discharge substantially identical effluents, based on the similarities of the general industrial activities and control measures, exposed materials that may significantly contribute pollutants to stormwater, and runoff coefficients of their drainage areas, you may monitor the effluent of just one of the outfalls and report that the results also apply to the substantially identical outfall(s). As required in Part 7.7.B.5, your SWPPP must identify each outfall authorized by this permit and describe the rationale for any substantially identical outfall determinations. The allowance for monitoring only one of the substantially identical outfalls is not applicable to any outfalls with numeric effluent limitations. You are required to monitor each outfall covered by a numeric effluent limit as identified in Part 7.8.B.2.

## 2. Commingled Discharges

If discharges authorized by this permit commingle with discharges not authorized under this permit, any required sampling of the authorized discharges must be performed at a point before they mix with other waste streams, to the extent practicable.

## 3. Measurable Storm Events

All required monitoring must be performed on a storm event that results in an actual discharge from your site (“measurable storm event”) that follows the preceding measurable storm event by at least 72 hours (three days). The 72-hour (3-day) storm interval does not apply if you are able to document that less than a 72-hour (3-day) interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring must be performed at a time when a measurable discharge occurs at your site.

For each monitoring event, except snowmelt monitoring, you must identify the date and duration (in hours) of the rainfall event, rainfall total (in inches) for that rainfall event, and time (in days) since the previous measurable storm event. For snowmelt monitoring, you must identify the date of the sampling event.

## 4. Sample Type

You must take a minimum of one grab sample from a discharge resulting from a measurable storm event, as described immediately above. Samples must be collected within the first 30 minutes of a discharge associated with a measurable storm event. If it is not possible to collect the sample within the first 30 minutes of a measurable storm event, the sample must be collected as soon as practicable after the first 30 minutes and documentation must be kept with the SWPPP explaining why it was not possible to take samples within the first 30 minutes. In the case of snowmelt, samples must be taken during a period with a measurable discharge.

## 5. Adverse Weather Conditions

When adverse weather conditions as described in Part 7.5.D.3 prevent the collection of samples according to the relevant monitoring schedule, you must take a substitute sample during the next qualifying storm event. Adverse weather does not exempt you from having to file a benchmark monitoring report in accordance with your sampling schedule. You must report any failure to monitor on your DMR during the regular reporting period. Use a description of “no data” or “insufficient flow to sample” on the report.

## 6. Climates with Irregular Stormwater Runoff

If your facility is located in areas where limited rainfall occurs during parts of the year (e.g., arid or semi-arid climates) or in areas where freezing conditions exist that prevent runoff from occurring for extended periods, required monitoring events may be distributed during seasons when precipitation occurs, or when snowmelt results in a measurable discharge from your site. As specified in Part 7.9.A, you must still collect the required number of samples. For any of the regular reporting periods that there was no monitoring, you must report on your DMR using a description of “no data” or “insufficient flow to sample.”

## 7. Monitoring Periods

Monitoring requirements in this permit begin in the first full quarter following your date of discharge authorization. If your monitoring is required on a quarterly basis (e.g., benchmark monitoring), you must monitor at least once in each of the following 3-month intervals:

- January 1 – March 31;
- April 1 – June 30;
- July 1 – September 30; and
- October 1 – December 31.

For example, if you obtain permit coverage on June 1, 2018, then your first monitoring quarter is July 1 - September 30, 2018. This monitoring schedule may be modified, as described immediately above, if the revised schedule is documented with your SWPPP and provided to the Secretary with your first monitoring report.

## 8. Monitoring for Allowable Non-Stormwater Discharges

You are only required to monitor allowable non-stormwater discharges, as identified in Part 2.2.B, when they are commingled with stormwater discharges associated with industrial activity.

## 9. Monitoring Reports

Monitoring data must be reported on a DMR form, or using the Agency's electronic reporting tool, if available.

#### 10. Standard Monitoring Provisions

- a. Samples and measurements taken for the purpose of monitoring must be representative of the volume and nature of the monitored activity.
- b. You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date the permit expires or the date the permittee's authorization is terminated. This period may be extended by request of the Secretary at any time.
- c. Records of monitoring information must include:
  - i. The date, exact place, and time of sampling or measurements;
  - ii. The individual(s) who performed the sampling or measurements;
  - iii. The date(s) analyses were performed
  - iv. The individual(s) who performed the analyses;
  - v. The analytical techniques or methods used; and
  - vi. The results of such analyses.

11. Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in the permit.

#### B. Required Monitoring

This permit includes four types of required analytical monitoring, one or more of which may apply to your discharge:

- Quarterly benchmark monitoring;
- Annual effluent limitations guidelines monitoring;
- Impaired waters monitoring; and
- Other monitoring as required by the Secretary.

When more than one type of monitoring for the same pollutant at the same outfall applies (e.g., total suspended solids once per year for an effluent limitation and once per quarter for benchmark monitoring at a given outfall), you may use a single sample to satisfy both monitoring requirements (i.e., one sample satisfying both the annual effluent limitation sample and one of the four quarterly benchmark monitoring samples). When the effluent limitation is lower than the benchmark concentration for the same pollutant, your corrective action trigger is based on an exceedance of the effluent limitation, which would subject you to the corrective action requirements of Part 7.6.

Note: Exceedance of an effluent limitation associated with the results of any analytical monitoring type required by this Part subjects you to the corrective action requirements of Part 7.6.

All required monitoring must be conducted in accordance with the procedures described in this Part 7.8.

#### 1. Benchmark Monitoring

This permit specifies pollutant benchmark concentrations that are applicable to certain sectors. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in determining when additional corrective action(s) may be necessary to comply with the effluent limitations in Part 7.4.

The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. However, if corrective action is required as a result of a benchmark exceedance, failure to conduct required corrective action is a permit violation.

At your discretion, more than four samples may be taken during separate runoff events and used to determine the average benchmark parameter concentration for facility discharges.

##### a. Applicability of Benchmark Monitoring

You must monitor for any benchmark parameters specified for the industrial sector(s), both primary industrial activity and any co-located industrial activities, applicable to your discharge. Your industry-specific benchmark concentrations are listed in the sector-specific sections of Part 7.10. If your facility is in one of the industrial sectors subject to benchmark concentrations that are hardness-dependent, you are required to submit to the Secretary with your NOI a hardness value which is representative of your receiving water.

Samples must be analyzed consistent with 40 C.F.R. Part 136 analytical methods and using test procedures with quantitation limits at or below

benchmark values for all benchmark parameters for which you are required to sample.

b. Benchmark Monitoring Schedule

Benchmark monitoring must be conducted quarterly, as identified in Part 7.8.A.7, for your first four full quarters of permit coverage.

Facilities in climates with irregular stormwater runoff, as described in Part 7.8.A.6, may modify this quarterly schedule provided that this revised schedule is reported directly to the Secretary by the due date of the first benchmark sample and that this revised schedule is kept with the facility's SWPPP as specified in Part 7.7.E. When conditions prevent you from obtaining four samples in four consecutive quarters, you must continue monitoring until you have the four samples required for calculating your benchmark monitoring average.

**Data not exceeding benchmarks:** After collection of four quarterly samples, if the average of the four monitoring values for any parameter does not exceed the benchmark, you have fulfilled your monitoring requirements for that parameter for the permit term.

**Data exceeding benchmarks:** After collection of four quarterly samples, if the average of the four monitoring values for any parameter exceeds the benchmark, you must in accordance with Part 7.6, review the selection, design, installation, and implementation of your control measures to determine if modifications are necessary to meet the effluent limits in this permit, and either:

- Make the necessary modifications and continue quarterly monitoring until you have completed four additional quarters of monitoring for which the average does not exceed the benchmark; or
- Make a determination that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice to meet the technology-based effluent limits or are necessary to meet the water-quality-based effluent limitations of Part 7.4, in which case you must continue monitoring once per year. To make the foregoing determination, you must demonstrate that you have first exhausted all BMPs, identified in the EPA Industrial Stormwater Fact Sheet applicable to your industrial sector, that can practicably be implemented, document your rationale for concluding that no further pollutant reductions are achievable, and retain all records related to this documentation with your SWPPP.

You must review your control measures and perform any required corrective action immediately (or document why no corrective action is



required), without waiting for the full four quarters of monitoring data, when an exceedance of the four quarter average is mathematically certain. If after modifying your control measures and conducting four additional quarters of monitoring, your average still exceeds the benchmark (or if an exceedance of the benchmark by the four quarter average is mathematically certain prior to conducting the full four additional quarters of monitoring), you must again review your control measures and take one of the two actions above.

**Natural background pollutant levels:** Following the first four quarters of benchmark monitoring (or sooner if the exceedance is triggered by less than four quarters of data; see above), if the average concentration of a pollutant exceeds a benchmark value, and you determine that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, you are not required to perform corrective action or additional benchmark monitoring provided that:

- The average concentration of your benchmark monitoring results is less than or equal to the concentration of that pollutant in the natural background; and
- You document and maintain with your SWPPP, as required in part 7.7.E, your supporting rationale for concluding that benchmark exceedances are in fact attributable solely to natural background pollutant levels. You must include in your supporting rationale any data previously collected by you or others (including literature studies) that describe the levels of natural background pollutants in your stormwater discharge.

Natural background pollutants are those substances that are naturally occurring in soils or ground water. Natural background pollutants do not include legacy pollutants from earlier activity on your site, or pollutants in run-on from neighboring sources which are not naturally occurring, such as other industrial sites or roadways. However, the Secretary may determine that you are eligible to discontinue monitoring for pollutants that occur solely from run-on sources.

c. Exception for Inactive and Unstaffed Sites

The requirement for benchmark monitoring does not apply at a facility that is inactive and unstaffed, provided that there are no industrial materials or activities exposed to stormwater. To invoke this exception, you must do the following:

- Maintain a statement with your SWPPP stating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to stormwater in accordance with the substantive

requirements in 40 C.F.R. § 122.26(g) and sign and certify the statement in accordance with Part 11.

- If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active or staffed, this exception no longer applies and you must immediately begin complying with the applicable benchmark monitoring requirements under Part 7.8.B.1 as if you were in your first year of permit coverage. You must indicate in your NOI that your facility has materials or activities exposed to stormwater or has become active or staffed.
- If you are not qualified for this exception at the time you are authorized under this permit, but during the permit term you become qualified because your facility is inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then you must notify the Secretary of this change on your NOI form. You may discontinue benchmark monitoring once you have notified the Secretary, and prepared and signed the certification statement described above concerning your facility's qualification for this special exception.

Note: This exception has different requirements for Non-Metallic Mineral Mining and Dressing facilities (see Part 7.10).

## 2. Effluent Limitations Monitoring

### a. Monitoring Based on Effluent Limitations Guidelines

Table 1 identifies the stormwater discharges subject to effluent limitation guidelines that are authorized for coverage under this permit. An exceedance of the effluent limitation is a permit violation. Beginning in the first full quarter following your date of discharge authorization you must monitor once per year at each outfall containing the discharges identified in Table 1 for the parameters specified in the sector-specific section of Part 7.10.

<b>Table 1. Required Monitoring for Effluent Limits Based on Effluent Limitations Guidelines</b>			
<b>Regulated Activity</b>	<b>Effluent Limit</b>	<b>Monitoring Frequency</b>	<b>Sample Type</b>
Mine dewatering discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities	See Table 4	1/year	Grab

b. Substantially Identical Outfalls

You must monitor each outfall discharging runoff from any regulated activity identified in Table 1. The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring.

c. Follow-up Actions if Discharge Exceeds Numeric Effluent Limitation

If any monitoring value exceeds a numeric effluent limitation contained in this permit, you must indicate the exceedance on a DMR form and you must conduct follow-up monitoring within 30 calendar days (or during the next qualifying runoff event, should none occur within 30 days) of implementing corrective action(s) taken per Part 7.6. When your follow-up monitoring exceeds the applicable effluent limitation, you must:

- Submit an Exceedance Report: You must submit an Exceedance Report no later than 30 days after you have received your laboratory result consistent with Part 7.9.C; and
- Continue to Monitor: You must monitor, at least quarterly, until your discharge is in compliance with the effluent limit or until the Secretary waives the requirement for additional monitoring. Once your discharge is back in compliance with the effluent limitation you must indicate this on a DMR form.

3. Discharges to Impaired Waters Monitoring

Note: For the purposes of monitoring, your project is considered to discharge to an impaired water if the first water of the State to which you discharge is identified by the State or EPA pursuant to section 303(d) of the CWA as not meeting an applicable water quality standard, has an EPA-approved TMDL, or is covered by pollution control requirements that meet the requirements of 40 C.F.R. § 130.7(b)(1). For discharges that enter a separate storm sewer system prior to discharge, the first water of the State to which you discharge is the waterbody that receives the stormwater discharge from the storm sewer system.

a. Discharges to impaired waters without an EPA-approved TMDL

Beginning in the first full quarter following your date of discharge authorization, you must monitor all pollutants for which the waterbody is impaired and for which a standard analytical method exists (see 40 C.F.R. Part 136) once per year at each outfall (except substantially identical outfalls) discharging stormwater to impaired waters without an EPA-approved TMDL.

If the pollutant of concern for the impaired waterbody is suspended solids, turbidity, or sediment/sedimentation, you must monitor for Total Suspended Solids (TSS). If a pollutant of concern is expressed in the form of an indicator or surrogate pollutant, you must monitor for that indicator or surrogate pollutant. No monitoring is required when a waterbody's biological communities are impaired but no pollutant, including indicator or surrogate pollutants, is specified as causing the impairment, or when a waterbody's impairment is related to hydrologic modifications, impaired hydrology, or other non-pollutant. Permittees should consult the Secretary for any available guidance regarding required monitoring parameters under this Part.

If the pollutant of concern is not detected and not expected to be present in your discharge, or it is detected but you have determined that its presence is caused solely by natural background sources, you may discontinue monitoring for that pollutant. To support a determination that the pollutant's presence is caused solely by natural background sources, you must document and maintain with your SWPPP, as required by Part 7.7.E:

- An explanation of why you believe that the presence of the pollutant of concern in your discharge is not related to the activities or materials at your facility; and
- Data or studies that tie the presence of the pollutant of concern in your discharge to natural background sources in the watershed.

Natural background pollutants include those that occur naturally as a result of native soils, and vegetation, wildlife, or ground water. Natural background pollutants do not include legacy pollutants from earlier activity on your site, or pollutants in run-on from neighboring sources that are not naturally occurring. However, you may be eligible to discontinue annual monitoring for pollutants that occur solely from these sources and should consult the Secretary for related guidance.

b. Discharges to impaired waters with an EPA-approved TMDL

For stormwater discharges to waters for which there is an EPA-approved TMDL, you are not required to monitor for the pollutant(s) for which the TMDL was written unless the Secretary informs you, upon examination of the applicable TMDL and its wasteload allocation, that you are subject to such a requirement consistent with the assumptions and requirements of the applicable TMDL and its wasteload allocation. The Secretary's notice will include specifications on monitoring parameters and frequency. Permittees must consult the Secretary for guidance regarding required monitoring under this Part.

#### c. Exception for Inactive and Unstaffed Sites

The requirement for impaired waters monitoring does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater. To invoke this exception, you must do the following:

- Maintain a statement with your SWPPP stating that the site is inactive and unstaffed, and that there are no industrial materials or activities exposed to stormwater in accordance with the substantive requirements in 40 C.F.R. 122.26(g) and sign and certify the statement in accordance with Part 11.
- If circumstances change and industrial materials or activities become exposed to stormwater or your facility becomes active or staffed, this exception no longer applies and you must immediately begin complying with the applicable impaired waters monitoring requirements under Part 7.8.B as if you were in your first year of permit coverage.
- If you are not qualified for this exception at the time you are authorized under this permit, but during the permit term you become qualified because your facility is inactive and unstaffed, and there are no industrial materials or activities that are exposed to stormwater, then you must notify the Secretary of this change on your NOI form. You may discontinue impaired waters monitoring once you have notified the Secretary, and prepared and signed the certification statement described above concerning your facility's qualification for this special exception.

Note: This exception has different requirements for Non-Metallic Mineral Mining and Dressing facilities (see Part 7.10).

#### 4. Additional Monitoring Required by the Secretary

The Secretary may notify you of additional discharge monitoring requirements. Any such notice will briefly state the reasons for the monitoring, locations, and parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.

## 7.9 Reporting and Recordkeeping

### A. Reporting Monitoring Data to the Secretary

All monitoring data collected pursuant to Part 7.8 must be submitted to the Secretary no later than 30 days after you have received your complete laboratory results for all monitored outfalls for the reporting period. The Discharge Monitoring Report (DMR) form is available at:

<http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/multi-sector-general-permit>

For any of your monitored outfalls that did not have a discharge within the reporting period you must report that there was “insufficient flow to sample” or “no data” for that outfall no later than 30 days after the end of the reporting period.

### B. Annual Report

As required by Part 10.2, you must submit an annual report to the Secretary by April 1<sup>st</sup> for each year of permit coverage containing information generated from the past calendar year. You must include the following information for the facilities and activities covered under this Part 7:

- A summary of your past year’s routine facility inspection documentation required (Part 7.5.C). In addition, if you are an operator of an airport facility that is subject to the airport effluent limitations guidelines, and are complying with the Part 7.10.B.8.a effluent limitation through the use of non-urea- containing deicers, provide a statement certifying that you do not use pavement deicers containing urea. (Note: Operators of airport facilities that are complying with Part 7.10.B.8.a by meeting the numeric effluent limitation for ammonia do not need to include this statement.)
- A summary of your past year’s quarterly visual assessment documentation (Part 7.5.D.2);
- For any four-sample (minimum) average benchmark monitoring exceedance, if after reviewing the selection, design, installation, and implementation of your control measures and considering whether any modifications are necessary to meet the effluent limits in the permit, you determine that no further pollutant reductions are technologically available and economically practicable and achievable in light of best industry practice, your rationale for why you believe no further reductions are achievable (see Part 7.8.B.1.b); and
- A summary of your past year’s corrective action documentation (see Part 7.6.D). If corrective action is not yet completed at the time of submission of your annual report, you must describe the status of any outstanding corrective action(s). Also describe any incidents of

noncompliance in the past year or currently ongoing, or if none, provide a statement that you are in compliance with the permit.

Your Annual Report must also include a statement, signed and certified in accordance with Part 11.

#### C. Exceedance Report for Numeric Effluent Limits

If follow-up monitoring pursuant to Part 7.8.B.2.C exceeds a numeric effluent limit, you must submit an Exceedance Report to the Secretary no later than 30 days after you have received your lab results. Your report must include the following:

- Facility project number;
- Facility name, physical address, and location;
- Name of receiving water;
- Monitoring data from this and the preceding monitoring event(s);
- An explanation of the situation, including what you have done and intend to do (should your corrective actions not yet be complete) to correct the violation; and
- An appropriate contact name and phone number.

#### D. Additional Reporting.

You must submit the following reports to the Secretary. If you discharge through an MS4, you must also submit these reports to the MS4 operator.

- 24-hour reporting - You must report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time you become aware of the circumstances;
- 5-day follow-up reporting to the 24 hour reporting - A written submission must also be provided within five days of the time you become aware of the circumstances;
- Reportable quantity spills - You must provide notification, as required under Part 7.4.B.4, as soon as you have knowledge of a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity.
- Planned changes – You must give notice to the Secretary promptly, no fewer than 30 days prior to making any planned physical alterations or additions to the permitted facility that qualify the facility as a new source or that could significantly change the nature or significantly increase the quantity of pollutants discharged;

- Anticipated noncompliance – You must give advance notice to the Secretary of any planned changes in the permitted facility or activity which you anticipate will result in noncompliance with permit requirements;
- Compliance schedules - Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date;
- Other noncompliance - You must report all instances of noncompliance not reported in your monitoring report, compliance schedule report, or 24-hour report at the time monitoring reports are submitted; and
- Other information – You must promptly submit facts or information if you become aware that you failed to submit relevant facts in your NOI, or that you submitted incorrect information in your NOI or in any report.

## 7.10 Sector-Specific Requirements for Industrial Activity

You must comply with Part 7.10 sector-specific requirements associated with your primary industrial activity and any co-located industrial activities listed in Table 2 below. The sector-specific requirements apply to those areas of your facility where those sector-specific activities occur. These sector-specific requirements are in addition to any requirements specified elsewhere in this permit.

<b>Table 2. Sectors of Industrial Activity Covered by This Permit</b>	
<b>SIC Code</b>	<b>Activity Represented</b>
<b>A. Non-Metallic Mineral Mining and Dressing</b>	
1442	Construction Sand and Gravel
1446	Industrial Sand
1411	Dimension Stone
1422-1429	Crushed and Broken Stone, Including Rip Rap
1481	Nonmetallic Minerals Services, Except Fuels
1499	Miscellaneous Nonmetallic Minerals, Except Fuels
1455, 1459	Clay, Ceramic, and Refractory Materials
1474-1479	Chemical and Fertilizer Mineral Mining
<b>B. Air Transportation Facilities</b>	
4512-4581	Air Transportation Facilities



## A. Non-Metallic Mineral Mining and Dressing

Note: Where compliance with a requirement in a separate exploration permit, mining permit, reclamation plan, Surface Mining Control and Reclamation Act (SMCRA) requirements, etc. will result in you fully meeting any requirement in this Subpart, you are considered to have complied with the relevant requirement in this Part 7.10.A. You must include documentation in your SWPPP describing your rationale for concluding that any particular action on your part is sufficient to comply with the corresponding requirement in this Part 7.10.A.

### 1. Covered Stormwater Discharges

The requirements in Part 7.10.A apply to stormwater discharges associated with industrial activity from Active and Inactive Non-Metallic Mineral Mining and Dressing facilities as identified by the SIC Codes specified in Table 2 above.

- a. Covered Discharges from Inactive Facilities. All stormwater discharges.
- b. Covered Discharges from Active and Temporarily Inactive Facilities.
  - (i) All stormwater discharges, except for most stormwater discharges subject to the existing effluent limitation guideline at 40 C.F.R. Part 436.
  - (ii) Prior to commencing initial dewatering, VTrans must receive approval from the Secretary for a site-specific dewatering plan. Mine dewatering discharges composed entirely of stormwater or uncontaminated ground water seepage from: construction sand and gravel, industrial sand, and crushed stone mining facilities.
- c. Covered Discharges from Sites Undergoing Reclamation. All stormwater discharges.

### 2. Limitations on Coverage

Most stormwater discharges subject to an existing effluent limitation guideline at 40 C.F.R. Part 436 are not authorized by this permit. The exceptions to this limitation, which are covered by this permit, are mine dewatering discharges composed entirely of stormwater or uncontaminated ground water seepage from construction sand and gravel, industrial sand, and crushed stone mining facilities.

### 3. Technology-Based Effluent Limits for Active Mining Activities

- a. *Employee Training.* Conduct employee training at least annually at active and temporarily inactive sites. (See Part 7.4.B.8).

b. *Stormwater Controls.* Apart from the control measures you implement to meet your Part 7.4 effluent limits, where necessary to minimize pollutant discharges, implement the following control measures at your site. The potential pollutants identified in this Part 7.10.A.4.c shall determine the priority and appropriateness of the control measures selected.

- i. *Stormwater Diversions:* Divert stormwater away from potential pollutant sources through implementation of control measures such as the following, where determined to be feasible (list not exclusive): interceptor or diversion controls (e.g., dikes, swales, curbs, berms); pipe slope drains; subsurface drains; conveyance systems (e.g., channels or gutters, open-top box culverts, and waterbars; rolling dips and road sloping; roadway surface water deflector and culverts); or their equivalents. For mines subject to dust control requirements under state air quality permits, provided the requirements are equivalent, compliance with such air permit dust requirements shall constitute compliance with the dust control effluent limit in Part 7.4.B.10.
- ii. *Capping:* When capping is necessary to minimize pollutant discharges in stormwater, identify the source being capped and the material used to construct the cap.
- iii. *Treatment:* If treatment of stormwater (e.g., chemical or physical systems, oil and water separators, artificial wetlands) is necessary to protect water quality, describe the type and location of treatment used. Passive and active treatment of stormwater runoff is encouraged. Treated runoff may be discharged as a stormwater source regulated under this permit provided the discharge is not combined with discharges subject to effluent limitation guidelines for the Mineral Mining and Processing Point Source Category (40 C.F.R. Part 436).

c. *Discharge Testing:* (See also Part 7.7.B.3.d) Test or evaluate all outfalls covered under this permit for the presence of specific mining-related but unauthorized non-stormwater discharges such as discharges subject to effluent limitations guidelines (e.g., 40 C.F.R. Part 436). Alternatively, (if applicable), you may keep a certification with your SWPPP per Part 7.10.A.4.d.

#### 4. Additional SWPPP Requirements for Mining Operations

The requirements in this Part 7.10.A.4 are not applicable to inactive Non-Metallic Mineral Mining and Dressing facilities.

a. *Nature of Industrial Activities.* (See also Part 7.7.B.2) Document in your SWPPP the mining and associated activities that can potentially affect the stormwater discharges covered by this permit, including a

general description of the location of the site relative to major transportation routes and communities.

b. *Site Map.* (See also Part 7.7.B.2) Document in your SWPPP the locations of the following (as appropriate): mining or milling site boundaries; access and haul roads; outline of the drainage areas of each stormwater outfall within the facility with indications of the types of discharges from the drainage areas; location(s) of all permitted discharges covered under an individual NPDES permit; outdoor equipment storage, fueling, and maintenance areas; materials handling areas; outdoor manufacturing, outdoor storage, and material disposal areas; outdoor chemicals and explosives storage areas; overburden, materials, soils, or waste storage areas; location of mine drainage dewatering or other process water; heap leach pads; off-site points of discharge for mine dewatering and process water; surface waters; boundary of tributary areas that are subject to effluent limitations guidelines; and location(s) of reclaimed areas.

c. *Potential Pollutant Sources.* (See also Part 7.7.B.3) For each area of the mine or mill site where stormwater discharges associated with industrial activities occur, document in your SWPPP the types of pollutants (e.g., heavy metals, sediment) likely to be present in significant amounts. For example, phosphate mining facilities will likely need to document pollutants such as selenium, which can be present in significant amounts in their discharges. Consider these factors: the mineralogy of the waste rock (e.g., acid forming); toxicity and quantity of chemicals used, produced, or discharged; the likelihood of contact with stormwater; vegetation of site (if any); and history of significant leaks or spills of toxic or hazardous pollutants. Also include a summary of any existing waste rock or overburden characterization data and test results for potential generation of acid rock drainage.

d. *Documentation of Control Measures.* To the extent that you use any of the control measures in Subpart 7.10.A.3, document them in your SWPPP pursuant to Part 7.7.B.4. If control measures are implemented or planned but are not listed here (e.g., substituting a less toxic chemical for a more toxic one), include descriptions of them in your SWPPP. If you are in compliance with dust control requirements under state air quality permits, you must state (or summarize, as necessary) what the state air quality permit dust control requirements are and how you've achieved compliance with them.

e. *Employee Training.* All employee training(s) conducted in accordance with Subpart 7.10.A.3.a must be documented with the SWPPP.

f. *Certification of Permit Coverage for Commingled Non-Stormwater Discharges.* If you determine that you are able to certify, consistent with Part 7.10.A.3.c, that a particular discharge composed of commingled stormwater and non-stormwater is covered under a separate NPDES

permit, and that permit subjects the non-stormwater portion to effluent limitations prior to any commingling, you must retain such certification with your SWPPP. This certification must identify the non-stormwater discharges, the applicable NPDES permit(s), the effluent limitations placed on the non-stormwater discharge by the permit(s), and the points at which the limitations are applied.

#### 5. Additional Inspection Requirements

Perform inspections at least quarterly unless adverse weather conditions make the site inaccessible. See Part 7.10.A.6.a for inspection requirements for inactive and unstaffed sites.

#### 6. Sector-Specific Benchmarks (See also Part 7.8)

Table 3 identifies benchmarks that apply to the specific subsectors of the Non-Metallic Mineral Mining and Dressing sector. These benchmarks apply to both your primary industrial activity and any co-located industrial activities. Note: There are no Part 7.10.A.6 monitoring and reporting or impaired waters monitoring requirements for inactive and unstaffed sites.

<b>Table 3</b>		
<b>Subsector (You may be subject to requirements for more than one sector/subsector)</b>	<b>Parameter</b>	<b>Benchmark Monitoring Concentration</b>
<b>Subsector J1.</b> Sand and Gravel Mining (SIC 1442, 1446)	Nitrate plus Nitrite Nitrogen	0.68 mg/L
	Total Suspended Solids (TSS)	100 mg/L
<b>Subsector J2.</b> Dimension and Crushed Stone and Nonmetallic Minerals (except fuels) (SIC 1411, 1422-1429, 1481, 1499)	Total Suspended Solids (TSS)	100 mg/L

a. Inactive and Unstaffed Sites – Conditional Exemption from No Exposure Requirement for Routine Inspections, Quarterly Visual Assessments, and Benchmark Monitoring. As a Non-Metallic Mineral Mining and Dressing facility, if you are seeking to exercise a waiver from either the routine inspection, quarterly visual assessment or the benchmark or impaired monitoring requirements for inactive and unstaffed sites (including temporarily inactive sites), you are conditionally exempt from the requirement to certify that “there are no industrial materials or activities exposed to stormwater” in Parts 7.5.B, 7.5.D.3, 7.8.B.1.c, and 7.8.B.3.c. This exemption is conditioned on the following:

- i. If circumstances change and your facility becomes active or staffed, this exception no longer applies and you must

immediately begin complying with the applicable benchmark monitoring requirements as if you were in your first year of permit coverage, and the quarterly visual assessment requirements; and

- ii. The Secretary retains the authority to revoke this exemption or the monitoring waiver where it is determined that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

Subject to the two conditions above, if your facility is inactive and unstaffed, you are waived from the requirement to conduct routine facility inspections, quarterly visual assessments, and benchmark and impaired waters monitoring. You must still conduct an annual site inspection in accordance with Part 7.5. You are encouraged to inspect your site more frequently where you have reason to believe that severe weather or natural disasters may have damaged control measures or increased discharges.

#### 7. Effluent Limitations Based on Effluent Limitations Guidelines (See also Part 7.8.B.2.a)

Table 4 identifies effluent limits that apply to the industrial activities described below. Compliance with these effluent limits is to be determined based on discharges from these industrial activities independent of commingling with any other waste streams that may be covered under this permit.

<b>Table 4</b>		
<b>Industrial Activity</b>	<b>Parameter</b>	<b>Effluent Limit<sup>1</sup></b>
Mine dewatering discharges at crushed stone mining facilities (SIC 1422 - 1429)	pH	6.0 - 9.0
Mine dewatering discharges at construction sand and gravel mining facilities (SIC 1442)	pH	6.0 - 9.0
Mine dewatering discharges at industrial sand mining facilities (SIC 1446)	Total Suspended Solids (TSS)	25 mg/L, monthly avg.
		45 mg/L, daily maximum
	pH	6.0 - 9.0

<sup>1</sup>Monitor annually.

#### 8. Reclaimed Mining Facilities

- a. Sites Reclaimed After December 17, 1990. A site or a portion of a site that has been released from applicable state or federal reclamation requirements after December 17, 1990, is not required to maintain coverage under this permit. If the site or portion of a site reclaimed after

December 17, 1990, was not subject to reclamation requirements, the site or portion of the site is no longer required to maintain coverage under this permit if the site or portion of the site has been reclaimed, as defined immediately below.

b. *Sites Reclaimed Before December 17, 1990.* A site or portion of a site that was released from applicable state or federal reclamation requirements before December 17, 1990, or that was otherwise reclaimed before December 17, 1990, is not required to have coverage under this permit if the site or portion of the site has been reclaimed. A site or portion of a site is considered to have been reclaimed if: (1) stormwater runoff that comes into contact with raw materials, intermediate byproducts, finished products, and waste products does not have the potential to cause or contribute to violations of state water quality standards, (2) soil disturbing activities related to mining at the sites or portion of the site have been completed, (3) the site or portion of the site has been stabilized to minimize soil erosion, and (4) as appropriate, depending on location, size, and the potential to contribute pollutants to stormwater discharges, the site or portion of the site has been revegetated, will be amenable to natural revegetation, or will be left in a condition consistent with the post-mining land use.

## B. Air Transportation

### 1. Covered Stormwater Discharges

The requirements in Part 7.10.B apply to stormwater discharges associated with industrial activity from Air Transportation facilities identified by the SIC Codes specified in Table 2.

### 2. Limitation on Coverage

a. *Limitations on Coverage.* This permit authorizes stormwater discharges from only those portions of the air transportation facility that are involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or deicing operations.

Note: The term “deicing” in this permit will generally be used to mean both deicing (removing frost, snow, or ice) and anti-icing (preventing accumulation of frost, snow, or ice) activities, unless specific mention is made otherwise.

b. *Prohibition of Non-Stormwater Discharges.* This permit does not authorize the discharge of aircraft, ground vehicle, runway, and equipment wash waters; nor the dry weather discharge of deicing chemicals. Such discharges must be covered by separate NPDES

permit(s). Note that a discharge resulting from snowmelt is not a dry weather discharge.

### 3. Multiple Operators at Air Transportation Facilities.

Air transportation facilities often have more than one operator who could discharge stormwater associated with industrial activity. Operators include the airport authority and airport tenants, including air passenger or cargo companies, fixed based operators, and other parties who routinely perform industrial activities on airport property.

a. Permit Coverage/Submittal of NOIs. Where an airport transportation facility has multiple industrial operators that discharge stormwater, each individual operator must obtain coverage under a NPDES stormwater permit. To obtain coverage under this permit, all such operators' discharges must be eligible under Part 2.2, and such operators must have SIC Codes listed in Table 2 and must submit NOIs, per Part 3 (or, if appropriate, a no exposure certification per Part 7.2).

b. MSGP Implementation Responsibilities for Airport Authority and Tenants. The airport authority, in collaboration with its tenants, may choose to implement certain requirements under this Part 7.10.B on behalf of its tenants in order to increase efficiency and eliminate redundancy or duplication of effort. Options available to the airport authority and its tenants for implementation of permit requirements include:

- i. The airport authority performs certain activities on behalf of itself and its tenants and reports on its activities;
- ii. Tenants provide the airport authority with relevant inputs about tenants' activities, including deicing chemical usage\*, and the airport authority compiles and reports on tenants' and its own activities;
- iii. Tenants independently perform, document, and submit required information on their activities.

\*Tenants who report their deicing chemical usage to the airport authority and rely on the airport authority to perform monitoring should not check the glycol and urea use box on their NOI forms.

c. SWPPP Requirements. A single comprehensive SWPPP must be developed for all stormwater discharges associated with industrial activity at the airport before submittal of any NOIs. The comprehensive SWPPP should be developed collaboratively by the airport authority and tenants. If any operator develops a SWPPP for discharges from its own areas of the airport, that SWPPP must be coordinated and integrated with the comprehensive SWPPP. All operators and their separate SWPPP

contributions and compliance responsibilities must be clearly identified in the comprehensive SWPPP, which all operators must sign and certify per Part 11. As applicable, the SWPPP must clearly specify the permit requirements to be complied with by:

- i. The airport authority for itself;
- ii. The airport authority on behalf of its tenants;
- iii. Tenants for themselves.

d. For each activity that an operator (e.g., the airport authority) conducts on behalf of another operator (e.g., a tenant), the SWPPP must describe a process for reporting results to the latter operator and for ensuring appropriate follow-up, if necessary, by all affected operators. This is to ensure all actions are taken to correct any potential deficiencies or permit violations. For example, where the airport authority is conducting monitoring for itself and its tenants, the SWPPP must identify how the airport authority will share the monitoring results with its tenants, and then follow-up with its tenants where there are any exceedances of benchmarks, effluent limits, or water quality standards. In turn, the SWPPP must describe how the tenants will also follow-up to ensure permit compliance.

e. Duty to Comply. All individual operators are responsible for implementing their assigned portion of the comprehensive SWPPP, and operators must ensure that their individual activities do not render another operator's stormwater controls ineffective. In addition, the standard permit conditions found in Part 11 apply to each individual operator, including the Duty to Comply. For multiple operators at an airport this means that each individual operator remains responsible for ensuring all requirements of its own coverage are met regardless of whether the comprehensive SWPPP allocates the actual implementation of any of those responsibilities to another entity. That is, the failure of the entity allocated responsibility in the SWPPP to implement a permit requirement on behalf of other operators does not negate the other operators' ultimate liability.

#### 4. Additional Technology-Based Effluent Limits

##### a. *Good Housekeeping Measures* (See also Part 7.4.B.2)

- i. Aircraft, Ground Vehicle, and Equipment Maintenance Areas. Minimize the contamination of stormwater runoff from all areas used for aircraft, ground vehicle, and equipment maintenance (including the maintenance conducted on the terminal apron and in dedicated hangers) through implementation of control measures such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and



flight considerations (list not exclusive): performing maintenance activities indoors; maintaining an organized inventory of material used in the maintenance areas; draining all parts of fluids prior to disposal; prohibiting the practice of hosing down the apron or hanger floor; using dry cleanup methods; and collecting the stormwater runoff from the maintenance area and providing treatment or recycling.

- ii. Aircraft, Ground Vehicle, and Equipment Cleaning Areas. Clearly demarcate these areas using signage or other appropriate means. Minimize the contamination of stormwater runoff from cleaning areas.
- iii. Aircraft, Ground Vehicle, and Equipment Storage Areas. Store all aircraft, ground vehicles, and equipment awaiting maintenance in designated areas only and implement control measures to minimize the discharge of pollutants in stormwater from these storage areas such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): storing aircraft and ground vehicles indoors; using drip pans for the collection of fluid leaks; and perimeter drains, dikes, or berms surrounding the storage areas.
- iv. Material Storage Areas. Maintain the vessels of stored materials (e.g., used oils, hydraulic fluids, spent solvents, and waste aircraft fuel) in good condition to prevent or minimize contamination of stormwater. Also plainly label the vessels (e.g., “used oil,” “Contaminated Jet A”). To minimize contamination of precipitation/runoff from these areas, implement control measures such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): storing materials indoors; storing waste materials in a centralized location; and installing berms/dikes around storage areas.
- v. Airport Fuel System and Fueling Areas. Minimize the discharge of pollutants in stormwater from airport fuel system and fueling areas through implementation of control measures such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): implementing spill and overflow practices (e.g., placing absorptive materials beneath aircraft during fueling operations); using only dry cleanup methods; and collecting stormwater runoff. If you have implemented a SPCC plan developed in accordance with the 2006 amendments to the

SPCC rule, you may cite the relevant aspects from your SPCC plan that comply with the requirements of this section in your SWPPP.

- vi. Source Reduction. Consistent with safety considerations, minimize the use of urea and glycol-based deicing chemicals to reduce the aggregate amount of deicing chemicals used that could add pollutants to stormwater discharges. Chemical options to replace pavement deicers (urea or glycol) include (list not exclusive): potassium acetate; magnesium acetate; calcium acetate; and anhydrous sodium acetate.

(i) Runway Deicing Operation: To minimize the discharge of pollutants in stormwater from runway deicing operations, implement source reduction control measures such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): metered application of chemicals; pre-wetting dry chemical constituents prior to application; installing a runway ice detection system; implementing anti-icing operations as a preventive measure against ice buildup; heating sand; and product substitution.

(ii) Aircraft Deicing Operations. Minimize the discharge of pollutants in stormwater from aircraft deicing operations. Determine whether excessive application of deicing chemicals occurs and adjust as necessary, consistent with considerations of flight safety. Determine whether alternatives to glycol and whether containment measures for applied chemicals are feasible. Implement control measures for reducing deicing fluid such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): forced-air deicing systems, computer-controlled fixed-gantry systems, infrared technology, hot water, varying glycol content to air temperature, enclosed-basket deicing trucks, mechanical methods, solar radiation, hangar storage, aircraft covers, and thermal blankets for MD-80s and DC-9s. Consider using ice- detection systems and airport traffic flow strategies and departure slot allocation systems where feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations. The evaluations and determinations required by this subpart should be carried out by the personnel most familiar with the particular aircraft and flight operations and related systems in question (versus an outside entity such as the airport authority).

- vii. Management of Runoff. (See also Part 7.4.B.6) Minimize the discharge of pollutants in stormwater from deicing chemicals in runoff. To minimize discharges of pollutants in stormwater from aircraft deicing, implement runoff management control measures such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): installing a centralized deicing pad to recover deicing fluid following application; plug-and-pump (PnP); using vacuum/collection trucks (glycol recovery vehicles); storing contaminated stormwater/deicing fluids in tanks; recycling collected deicing fluid where feasible; releasing controlled amounts to a publicly owned treatment works; separation of contaminated snow; conveying contaminated runoff into a stormwater impoundment for biochemical decomposition (be aware of attracting wildlife that may prove hazardous to flight operations); and directing runoff into vegetative swales or other infiltration measures. To minimize discharges of pollutants in stormwater from runway deicing, implement runoff management control measures such as the following, where determined to be feasible and that accommodate considerations of safety, space, operational constraints, and flight considerations (list not exclusive): mechanical systems (snow plows, brushes); conveying contaminated runoff into swales or a stormwater impoundment; and pollution prevention practices such as ice detection systems, and airfield prewetting.

When applying deicing fluids during non-precipitation events (also referred to as “clear ice deicing”), implement control measures to prevent unauthorized discharge of pollutants (dry-weather discharges of pollutants would need coverage under an NPDES wastewater permit), or to minimize the discharge of pollutants from deicing fluids in later stormwater discharges, implement control measures such as the following, where determined to be feasible and that accommodate considerations safety, space, operational constraints, and flight considerations (list not exclusive): recovering deicing fluids; preventing the fluids from entering storm sewers or other stormwater discharge conveyances (e.g., covering storm sewer inlets, using booms, installing absorptive interceptors in the drains); releasing controlled amounts to a publicly owned treatment works. Used deicing fluid should be recycled whenever practicable.

- d. *Deicing Season.* You must determine the seasonal timeframe (e.g., December - February, October - March) during which deicing activities typically occur at the facility. Implementation of control measures, including any BMPs, facility inspections and monitoring

must be conducted with particular emphasis throughout the defined deicing season. If you meet the deicing chemical usage thresholds of 100,000 gallons glycol or 100 tons of urea, the deicing season you identified is the timeframe during which you must obtain the four required benchmark monitoring event results for deicing-related parameters, i.e., BOD, COD, ammonia, and pH. See also Part 7.10.B.7.

## 5. Additional SWPPP Requirements

- a. *Drainage Area Site Map.* (See also Part 7.7.B.2) Document in the SWPPP the following areas of the facility and indicate whether activities occurring there may be exposed to precipitation/surface runoff: aircraft and runway deicing operations; fueling stations; aircraft, ground vehicle, and equipment maintenance/cleaning areas; and storage areas for aircraft, ground vehicles, and equipment awaiting maintenance.
- b. *Potential Pollutant Sources.* (See also Part 7.7.B.3) In the inventory of exposed materials, describe in the SWPPP the potential for the following activities and facility areas to contribute pollutants to stormwater discharges: aircraft, runway, ground vehicle and equipment maintenance and cleaning; and aircraft and runway deicing operations (including apron and centralized aircraft deicing stations, runways, taxiways and ramps). If deicing chemicals are used, a record of the types (including the Safety Data Sheets [SDS]) used and the monthly quantities, either as measured or, in the absence of metering, using best estimates, must be maintained. This includes all deicing chemicals, not just glycols and urea (e.g., potassium acetate), because large quantities of these other chemicals can still have an adverse impact on receiving waters. Deicing operators must provide the above information to the airport authority for inclusion with any comprehensive airport SWPPPs.
- c. *Vehicle and Equipment Washwater Requirements.* If wash water is handled in a manner that does not involve separate NPDES permitting or local pretreatment requirements (e.g., hauled offsite, retained onsite), describe the disposal method and include all pertinent information (e.g., frequency, volume, destination) in your SWPPP. Discharges of vehicle and equipment wash water are not authorized by this permit for this sector.
- d. *Documentation of Control Measures Used for Management of Runoff.* Document in your SWPPP the control measures used for collecting or containing contaminated melt water from collection areas used for disposal of contaminated snow.

## 6. Additional Inspection Requirements

At a minimum conduct facility inspections at least monthly during the deicing season (e.g., October through April for most mid-latitude airports). If your facility needs to deice before or after this period, expand the monthly inspections to include all months during which deicing chemicals may be used. The Secretary may specifically require you to increase inspection frequencies.

## 7. Sector-Specific Benchmarks (See also Part 7.8)

Table 5 identifies benchmarks that apply to the Air Transportation Sector. These benchmarks apply to both your primary industrial activity and any co-located industrial activities.

<b>Table 5</b>		
<b>Subsector (You may be subject to requirements for more than one sector/subsector)</b>	<b>Parameter</b>	<b>Benchmark Monitoring Concentration</b>
For airports where a single permittee, or a combination of permitted facilities use more than 100,000 gallons of pure glycol in glycol-based deicing chemicals or 100 tons or more of urea on an average annual basis, monitor the first four parameters in ONLY those outfalls that collect runoff from areas where deicing activities occur (SIC 4512-4581).	Biochemical Oxygen Demand (BOD <sub>5</sub> ) <sup>1</sup>	30 mg/L
	Chemical Oxygen Demand (COD) <sup>1</sup>	120 mg/L
	Ammonia <sup>1</sup>	2.14 mg/L
	pH <sup>1</sup>	6.0 - 9.0 s.u.

<sup>1</sup> These are deicing-related parameters. Collect the four benchmark samples, and any required follow-up benchmark samples, during the timeframe defined in Part 7.10.B.4.b when deicing activities are occurring.

## 8. Effluent Limitations Based on Effluent Limitations Guidelines and New Source Performance Standards

- a. **Airfield Pavement Deicing.** For both existing and new “primary airports” (as defined at 49 U.S.C. § 47102(16)) with 1,000 or more annual non-propeller aircraft departures that discharge stormwater from airfield pavement deicing activities, there shall be no discharge of airfield pavement deicers containing urea. To comply with this limitation, such airports must do one of the following: (1) certify annually on the annual report that you do not use pavement deicers containing urea, or (2) meet the effluent limitation in Table 6.
- b. **Aircraft Deicing.** Airports that are both “primary airports” (as defined at 49 U.S.C. § 47102(16)) and new sources (“new airports”) with

1,000 or more annual non-propeller aircraft departures must meet the applicable requirements for aircraft deicing at 40 C.F.R. § 449.11(a). Discharges of the collected aircraft deicing fluid directly to waters of the State are not eligible for coverage under this permit.

- c. **Monitoring, Reporting, and Recordkeeping.** For new and existing airports subject to the effluent limitations immediately above, you must comply with the applicable monitoring, reporting, and recordkeeping requirements outlined in 40 C.F.R. § 449.20.

<b>Table 6</b>		
<b>Industrial Activity</b>	<b>Parameter</b>	<b>Effluent Limitation</b>
Runoff containing urea from airfield pavement deicing at existing and new primary airports with 1,000 or more annual non-propeller aircraft departures	Ammonia as Nitrogen	14.7 mg/L, daily maximum

## **PART 8: STORMWATER DISCHARGES FROM IMPERVIOUS SURFACES**

This Part provides permit coverage for previously permitted stormwater runoff discharges and proposed new stormwater runoff discharges from impervious surfaces that trigger jurisdiction, as described in Subpart 8.1.A., below. This Part provides permit coverage for stormwater discharges to waters of the State that are not impaired by stormwater and to waters of the State that are listed as principally impaired due to stormwater runoff with a stormwater WQRP or TMDL on the EPA-approved State of Vermont List of Priority Surface Waters (Part D, Impaired Surface Waters with Completed and Approved TMDLs) and that have an approved flow restoration plan or other approved implementation plan.

### **8.1 Applicability**

#### **A. Permit Coverage Required**

The following discharges of stormwater runoff require coverage under this permit or General Permit 3-9050, unless the Secretary determines the discharge requires coverage under an individual permit:

1. Discharges of stormwater runoff from new, redeveloped, and expanded impervious surfaces, if:
  - a. The new impervious surfaces are equal to or greater than one-half (1/2) acre;
  - b. The redeveloped portion of the existing impervious surface is equal to or greater than one-half (1/2) acre;
  - c. There is a combination of expansion and redevelopment of an existing impervious surface, such that the total resulting impervious surface is equal to or greater than one (1) acre; or
  - d. There is an expansion of existing impervious surfaces greater than 5,000 square feet where the total resulting impervious surface is equal to or greater than one (1) acre, or the cumulative expansions occurring after July 4, 2005 exceed 5,000 sq. ft. and the total resulting impervious surface is equal to or greater than one (1) acre.
2. Renewals of the following previously issued authorizations for discharges of stormwater runoff:
  - a. Projects previously authorized under an Individual State Stormwater Discharge Permit (INDS);
  - b. Projects previously authorized under General Permit 3-9015;
  - c. Projects previously authorized under General Permit 3-9010;

- d. Projects previously authorized under General Permit 3-9050; and
- e. Projects previously authorized under a temporary pollution permit pursuant to 10 V.S.A. § 1265.

**B. Phased Development and Circumvention**

If any development, redevelopment, or expansion does not meet the permit acreage thresholds in Subpart 8.1.A, but is part of an anticipated larger phased development completed in two or more phases that will meet such acreage thresholds, then coverage under this permit for each phase of the development is required.

If the Secretary determines that a person has separated a single project into components in order to avoid the regulatory minimum thresholds or other requirements of this permit, the person shall be required to submit a permit application for the component parts.

This subsection is not intended to include the types of scattered or non-contiguous projects that are set forth as planned development in long-range transportation plans, regional plans, municipal plans, or housing authority plans.

**C. Effect of Compliance with the Requirements of Part 8**

Discharges of regulated stormwater runoff authorized by and in compliance with Part 8 of this permit are permitted to discharge to waters of the State. If a discharge of regulated stormwater runoff obtains coverage under and is in compliance with the terms and conditions of Part 8 of this permit, the discharge shall be presumed to not be contributing to violation of water quality standards.

**8.2 Exemptions from Coverage Under this Part 8**

Coverage under Part 8 of this permit is not required for:

- A. Stormwater runoff permitted under 10 V.S.A. § 1263, which includes discharges of stormwater runoff covered by a permit for direct or indirect discharge from a wastewater treatment plant or a permit issued pursuant to Vermont's Underground Injection Control Rule;
- B. Stand-alone offset projects that receive an individual stand-alone offset project permit or authorization under a general stand-alone offset project permit; and
- C. Discharges of stormwater runoff from the portion of a bridge superstructure that spans the normal water level of a receiving water and no water from the approaches flows to the bridge deck.
- D. Stormwater runoff from the construction, redevelopment, or expansion of one-half acre to one acre of impervious surface where the project is a public transportation project, and as of July 1, 2022, the Agency of Transportation or the



municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not necessary, and substantial construction of the project commences within five years from July 1, 2022.

### **8.3 Designer's Statement of Compliance**

For projects requiring coverage under Part 8, within thirty (30) days of the completion of construction of the permitted stormwater management system, VTrans shall submit to the Secretary a written statement signed by a designer acceptable to the Secretary stating that the stormwater management system was built and is operating in compliance with the requirements of Part 8 of this permit.

For applications for permit renewals for projects already meeting the requirements of this Part, VTrans shall submit to the Secretary as part of the permit application a written statement signed by a designer acceptable to the Secretary that the stormwater management system is properly operating and maintained in compliance with the requirements of Part 8 of this permit.

### **8.4 Discharge Requirements**

#### **A. Stormwater Treatment Standards and Stormwater Treatment Practices (STPs)**

1. For purposes of this Part 8, "Vermont Stormwater Management Manual" shall be the version of the Manual in effect at the time an administratively complete application is submitted for coverage under this permit.
2. For discharges of regulated stormwater runoff, the following treatment standards apply:
  - a. For new impervious surface, the expanded portion of an existing impervious surface, or redevelopment, the project shall satisfy the requirements of the Vermont Stormwater Management Manual.
  - b. For incorporation of an authorization under 3-9010, 3-9015, or 3-9050 or an individual state stormwater discharge permit (INDS):
    - i. For stormwater systems that have been constructed and that are not substantially deteriorated, the stormwater system shall meet the requirements of the previously-issued permit.
    - ii. For projects that were built but for which the permitted stormwater system was not built, or was built and has substantially deteriorated, and was designed to meet the Vermont Stormwater Management Manual, the stormwater system shall meet the requirements of the previously-issued permit.
    - iii. For projects that were built but for which the permitted stormwater system was not built, or was built and has

substantially deteriorated, and for which the permitted stormwater system was designed to standards in place prior to the adoption of the Vermont Stormwater Management Manual, the applicant shall implement a stormwater system that complies with the Vermont Stormwater Management Manual, to the extent feasible, considering site and design constraints; is consistent with any applicable plans necessary to implement the wasteload allocation of any applicable TMDL; and, at a minimum, provides the same level of treatment as the previously issued stormwater permit.

“Substantially deteriorated” means the condition of a stormwater treatment practice would necessitate repair or reconstruction beyond that which would be considered routine, periodic maintenance for a system of similar design.

## **8.5 Changes to Permitted Development**

At least 60 days prior to expansion or change, VTrans shall notify the Secretary of any planned impervious surface expansions or changes planned for impervious surfaces authorized under this Part 8. The Secretary may require VTrans to submit additional information on the proposed changes. The Secretary shall determine the appropriateness of continued inclusion under this permit by the modified impervious surface. The Secretary may amend the authorization to discharge or the Secretary may require the permittee to seek coverage under another general permit or an individual discharge permit.

## **PART 9: TMDL IMPLEMENTATION**

### **9.1 Stormwater Flow Restoration Plan (FRP)**

- A. VTrans submitted its Flow Restoration Plan (FRP) on October 1, 2016, pursuant to the requirements of “General Permit 3-9014 for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems” (2012).
- B. The Secretary approved VTrans’ FRP and it is a part of VTrans’ SWMP. The FRP applies to VTrans’ designated regulated small MS4.
- C. Any failure of VTrans to comply with the SWMP, including the design and construction schedule in the approved FRP, shall constitute a violation of this permit.
- D. Schedule of Compliance. As outlined in its FRP, VTrans shall implement measures necessary to achieve the flow restoration targets in the stormwater TMDLs for the waters within the VTrans designated regulated small MS4 no later

than December 5, 2032. VTrans shall submit a report on an annual basis on VTrans' development and implementation of the FRP. The reports shall be submitted every April 1<sup>st</sup>. The report shall address actions taken to implement all FRP components, including the extent of BMP implementation, an estimate of the extent of completion for remaining items, and an assessment of the ability to meet outstanding schedule items. The FRP report shall include a written statement signed by a designer acceptable to the Secretary that any BMP built or implemented within the preceding one-year period was constructed in compliance with the approved plans. VTrans shall include in each FRP report an estimate of any associated reductions in phosphorus loading that occur as a result of implementation measures undertaken by VTrans to meet the flow reduction targets.

## **9.2 Lake Champlain Phosphorus Control Plan (PCP) Requirements**

- A. VTrans shall develop and implement a comprehensive Phosphorus Control Plan (PCP) for the TS4 within the Lake Champlain Basin. The PCP shall be developed in phases and submitted to the Secretary according to the schedule in Subpart 9.2.C. VTrans has completed the PCP requirements listed 1 – 4, below.

1. Establish baseline phosphorus loading assessments for the TS4. Using this baseline, VTrans shall calculate the phosphorus load reduction needed to achieve its percent reduction from the TS4 for each lake segment, listed in the following Table.

<b>Lake Segment</b>	<b>% Reduction</b>
01. South Lake B	21.1%
02. South Lake A	18.1%
03. Port Henry	7.6%
04. Otter Creek	15.0%
05. Main Lake	20.2%
06. Shelburne Bay	20.2%
07. Burlington Bay	24.2%
09. Malletts Bay	20.5%
10. Northeast Arm	7.2%
11. St. Albans Bay	21.7%
12. Missisquoi Bay	34.2%
13. Isle La Motte	8.9%

2. Investigate phosphorus loading factors that will inform the prioritization of retrofit projects. Investigation shall include at least a GIS inventory of hydrologic connectivity and areas of active erosion for the TS4.

3. Based on the GIS inventory and established phosphorus baseline, develop coefficients for loading rates across the TS4 for the various transportation land uses.
4. Develop a plan for the entire TS4 within the Lake Champlain Basin that at a minimum estimates the area (acreage or road miles) to be treated and the extent and type of BMPs to meet the entire phosphorus load reduction.
5. Plan to achieve, on average, a 25% load reduction of the total combined reduction targets in all Lake segments in each 4-year phase, so that after all phases are completed the total reductions equal 100%. For each phase, VTrans shall:
  - (i) Identify the suite of necessary stormwater BMPs that will be used to meet the required phosphorus load reduction.
  - (ii) Prepare a design and construction schedule for the stormwater BMPs that have been identified by VTrans as necessary to achieve the phosphorus reduction targets.
  - (iii) Prepare a financing plan that estimates the costs for implementing the PCP Phase and describes a strategy for financing the PCP Phase. The financing plan shall include the steps VTrans will take to implement the financing plan.
  - (iv) Identify any parties, other than VTrans, that will be responsible for implementing any portion of the VTrans PCP, and which portion they will be responsible for implementing.
- B. Each separate submission of information required under the compliance schedule in Subpart 9.2.C will be placed on public notice for a minimum of 30 days and the Secretary will consider all public comments received during the period. Upon approval by the Secretary, each separate element of the Phosphorus Control Plan shall become a part of VTrans' SWMP.
- C. Schedule of Compliance. VTrans shall implement all measures necessary to achieve the TMDL phosphorus reduction targets for each lake segment no later than June 17, 2036.

The following PCP development and implementation schedule shall apply.

VTrans shall, according to the following schedule:

April 1, 2023 and every year thereafter	Submit annual report on Phosphorus Control Plan implementation. (Subpart 9.2.D)
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April 1, 2024	Submit 2 <sup>nd</sup> 4-year implementation plan (Phase II). (Subpart 9.2.A.5)
April 1, 2028	Submit 3 <sup>rd</sup> 4-year implementation plan (Phase III). (Subpart 9.2.A.5)
April 1, 2032	Submit 4 <sup>th</sup> 4-year implementation plan (Phase IV). (Subpart 9.2.A.5)
No later than June 17, 2036	Complete implementation of the approved PCP.

D. Continuing April 1, 2023, VTrans shall submit reports on an annual basis on its development and implementation of the PCP. The reports shall be submitted on forms provided by the Secretary to enable the Secretary to track phosphorus reductions across the Basin. The reports shall address actions taken to implement all PCP components, including:

1. The extent of BMP implementation,
2. An estimate of the extent of completion for remaining items,
3. An assessment of the ability to meet outstanding schedule items, and
4. A written statement signed by a designer acceptable to the Secretary that any structural BMP built or implemented within the preceding 12 month period was constructed in compliance with the approved plans.

### **9.3 Lake Memphremagog Phosphorus Control Plan (PCP) Requirements**

- A. VTrans shall develop and implement a Phosphorus Control Plan (PCP) for the TS4 within the Lake Memphremagog watershed. The PCP shall be developed in phases and submitted to the Secretary according to the schedule in Subpart 9.3.C.
1. Establish baseline phosphorus loading assessments for the TS4. Using this baseline, VTrans shall calculate the phosphorus load reduction needed to achieve a 18.2% percent reduction from the TS4.
  2. Investigate phosphorus loading factors that will inform the prioritization of retrofit projects. Investigation shall include at least a GIS inventory of hydrologic connectivity and areas of active erosion for the TS4.
  3. Based on the GIS inventory and established phosphorus baseline, develop coefficients for loading rates across the TS4 for the various transportation land uses.

4. Develop a plan for the entire TS4 within the Lake Memphremagog watershed that at a minimum estimates the area (acreage or road miles) to be treated and the extent and type of BMPs to meet the entire phosphorus load reduction.
  5. Plan to achieve, on average, a 33% load reduction in each 4-year phase, so that after all phases are completed the total reductions equal 100%.
  6. For the Plan, VTrans shall:
    - (i) Identify the suite of necessary stormwater BMPs that will be used to meet the required phosphorus load reduction.
    - (ii) Prepare a design and construction schedule for the stormwater BMPs that have been identified by VTrans as necessary to achieve the phosphorus reduction targets.
    - (iii) Prepare a financing plan that estimates the costs for implementing the PCP Phase and describes a strategy for financing the PCP Phase. The financing plan shall include the steps VTrans will take to implement the financing plan.
    - (iv) Identify any parties, other than VTrans, that will be responsible for implementing any portion of the VTrans PCP, and which portion they will be responsible for implementing.
- B. Each separate submission of information required under the compliance schedule in Subpart 9.2.C will be placed on public notice for a minimum of 30 days and the Secretary will consider all public comments received during the period. Upon approval by the Secretary, each separate element of the Phosphorus Control Plan shall become a part of VTrans' SWMP.
- C. Schedule of Compliance. VTrans shall implement all measures necessary to achieve the TMDL phosphorus reduction targets no later than September 28, 2037.

The following PCP development and implementation schedule shall apply.

**VTrans shall, according to the following schedule:**

April 1, 2024	Establish the baseline phosphorus load and reductions needed. (Subpart 9.3.A.1)
	Complete GIS inventory of phosphorus loading factors. (Subpart 9.3.A.2)
	Complete development of coefficients of loading rates. (Subpart 9.3.A.3)

April 1, 2025	Complete Phosphorus Control Plan. (Subpart 9.3.A.4)
April 1, 2026 and every year thereafter	Submit annual report on Phosphorus Control Plan implementation. (Subpart 9.3.D)
No later than September 28, 2037	Complete implementation of the approved PCP.

D. Starting on April 1, 2023, VTrans shall submit reports on an annual basis on its development and implementation of the PCP. The reports shall be submitted on forms provided by the Secretary to enable the Secretary to track phosphorus reductions across the watershed. The reports shall address actions taken to implement all PCP components, including:

1. The extent of BMP implementation,
2. An estimate of the extent of completion for remaining items,
3. An assessment of the ability to meet outstanding schedule items, and
4. A written statement signed by a designer acceptable to the Secretary that any structural BMP built or implemented within the preceding 12 month period was constructed in compliance with the approved plans.

## **PART 10: RECORD KEEPING AND REPORTING**

### **10.1 Record Keeping**

- A. VTrans shall retain records of all monitoring information, copies of all reports required by this permit, copies of Discharge Monitoring Reports (DMRs), a copy of its authorization and amended authorizations under this permit, and records of all data used to complete the applications NOI for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the Secretary at any time.
- B. Until notice from the Secretary, VTrans shall retain copies of all written records relating to the stormwater collection, treatment, and control systems, and BMPs, including calculations used to size STPs, authorized under this permit.
- C. VTrans shall submit its records to the Secretary when specifically asked to do so. VTrans shall retain a copy of the SWMP required by this permit, and a copy of

the permit language, at a location accessible to the Secretary. VTrans shall make its records, including the NOI and SWMP, available to the public, if requested to do so in writing.

## **10.2 Annual Report**

VTrans shall submit its annual reports to the Department of Environmental Conservation, Watershed Management Division, Stormwater Management Program by April 1<sup>st</sup> each year, and upon receipt, the Department shall post each annual report on its website. In addition to any FRP and PCP reporting requirements, the annual report shall include all annual reporting requirements under Parts 4, 5, 6, and 7<sup>1</sup> of this permit as well as:

- A. The status of VTrans' compliance with permit conditions, an assessment of the appropriateness of the identified BMPs, progress towards achieving implementation of BMPs necessary to meet TMDL requirements and progress towards achieving the statutory goal for the six minimum measures of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures and TMDL implementation measures;
- B. An inspection report on the condition of VTrans' stormwater management systems that notes all problem areas and all measures taken to correct any problems and to prevent future problems.
- C. Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at meeting TMDL requirements and the success of the six minimum measures.
- D. A summary of the stormwater activities VTrans plans to undertake during the next reporting cycle (including an implementation schedule);
- E. Proposed changes to VTrans' SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements; and
- F. Notice that VTrans is relying on another government entity to satisfy some of its permit obligations (if applicable).

## **PART 11: STANDARD PERMIT CONDITIONS**

### **11.1 Operation and Maintenance**

VTrans shall at all times properly operate, inspect, and maintain all stormwater collection, treatment, and control systems and BMPs which are used to achieve

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<sup>1</sup> Other annual reporting requirements are found in Subparts 4.2; 5.2.C; 6.3.C.1; 6.3.F.3; 6.4; 7.5.C; 7.6.D; and 7.9.B.



compliance with this permit. Any stormwater system deficiencies noted during inspections shall be corrected.

Solids, sediments, and other pollutants collected and removed in the course of treatment or control of stormwater runoff shall be disposed of in a manner to prevent any pollutant from entering waters or wetlands.

#### 11.2 Duty to Comply

The permittee shall comply with all terms and conditions of this permit and the permittee's authorization to discharge issued hereunder. 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.

#### 11.3 Duty to Reapply

If an authorized stormwater discharge is to continue after the expiration date of its authorization to discharge, the permittee shall reapply for coverage under this permit at least ninety (90) days prior to the expiration date of the authorization to discharge. If the discharge does not meet the eligibility requirements for coverage under this permit, then the permittee shall apply for coverage under an individual permit at least ninety (90) days prior to the expiration date of the authorization to discharge.

#### 11.4 Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to its expiration date, it will be administratively continued and remain in full force and effect until the permit is reissued or replaced or until the Secretary makes a formal decision not to reissue this permit.

#### 11.5 Transfer of Authorization to Discharge and Addition of Co-Permittee

Provided all applicable fees under 3 V.S.A. § 2822 have been paid, an airport tenant's authorization to discharge issued pursuant to this permit may be transferred. An authorization under this permit is not transferable to any person except after notice to the Secretary. Prior to transferring an authorization to discharge, the airport tenant shall submit a notice of transfer to the Secretary. The notice shall be submitted thirty (30) days prior to the proposed date of transfer and shall include the following:

1. The name and address of the present permittee,
2. The name and address of the prospective permittee,

3. The proposed date of transfer,
4. A statement signed by the prospective permittee, stating that:
  - a. The conditions of operation that contribute to, or affect, the discharge will not be materially different under the new ownership,
  - b. He/she has read and is familiar with the terms of the permit and agrees to comply with all the terms and conditions of the permit, and
  - c. He/she has adequate funding or other means to effect compliance with all terms of the permit.

A permittee may add a co-permittee by submitting a notice of addition of co-permittee on a form provided by the Secretary. The form shall include, at a minimum, the information required under this Subpart 11.5.

#### 11.6 Requiring an Individual Permit

The Secretary may require any person who files an application for coverage or who is already covered under this permit to apply for an individual permit. Any interested person may petition the Secretary to take action under this paragraph. Cases in which an individual permit may be required include:

1. The permittee is not in compliance with the terms and conditions of this permit;
2. The discharge does not qualify for general permit coverage taking into account:
  - a. The location of the discharge;
  - b. The size of the discharge; or
  - c. The impact of the discharge on the receiving water; or
3. When necessary to implement an applicable TMDL or WQRP

#### 11.7 Right of Entry and Inspection

The permittee shall allow the Secretary and his/her authorized representatives, at reasonable times and upon presentation of credentials, to:

1. Enter upon and inspect the permittee's property where discharges, the stormwater collection, treatment, and control system, and BMPs are located, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records required to be kept pursuant to this permit;

3. Inspect at reasonable time any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the federal Clean Water Act or state law, any substances or parameters, including BMP performance, at any location.

#### 11.8 Duty to Provide Information

The permittee shall furnish to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or termination of this permit or to determine compliance with this permit. The permittee shall also furnish to the Secretary, upon request, copies of records required to be kept pursuant to this permit.

#### 11.9 Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Secretary at any time.

#### 11.10 Operating Fees

Pursuant to 3 V.S.A. § 2822, stormwater discharges authorized by this permit are subject to operating fees. VTrans shall submit all operating fees in accordance with procedures provided by the Secretary. Failure to pay operating fees shall constitute a violation of this permit.

#### 11.11 Rights & Privileges

This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit does not obviate the necessity of obtaining such federal, state, or local permits or approvals as may be required by law.

#### 11.12 Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#### 11.13 Duty to Mitigate

VTrans shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

#### 11.14 Anticipated Noncompliance

VTrans shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

#### 11.15 Responsibilities and Liabilities Under Other Laws

Nothing in this general permit shall be construed to preclude the institution of legal action or relieve VTrans from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under other laws.

#### 11.16 Permit Actions & Revocation

The Secretary may, after notice and opportunity for public hearing under 3 V.S.A. § 814 revoke or suspend, in whole or in part, authorization to discharge under this permit for cause, including:

1. Violation of any terms or conditions of the permit;
2. Obtaining authorization under the permit by misrepresentation or failure to disclose fully all relevant facts;
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
4. Correction of violations of the Vermont Water Quality Standards.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

#### 11.17 Enforcement

The permittee shall comply with all terms and conditions of this permit. Any violation of this permit or relevant state law may result in the institution of legal

proceedings pursuant to 10 V.S.A. §§ 1274 and 1275 and 10 V.S.A. Chapters 201 and 211. Such legal proceedings may include the issuance of orders, the levying of penalties, and imprisonment. Legal proceedings may also be instituted if a person knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method, in connection with this permit and any authorization to discharge issued under this permit. In addition, the Secretary may issue orders pursuant to 10 V.S.A. § 1272 and may take any and all other enforcement actions, without limitation, provided by law.

#### 11.18 Signatory Requirements

1. All permit applications shall be signed as follows:
  - a. For a corporation. By a responsible corporate officer. For the purpose of this section, a “responsible corporate officer” means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
  - c. For a municipality, state, federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
2. All reports required by permits, and other information requested by the Secretary shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in paragraph (a) of this section and submitted to the Secretary; and
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.
3. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

#### 11.19 Severability

Invalidation of a portion of this permit does not necessarily render the whole permit invalid. The Secretary's intent is that the permit is to remain in effect to the extent possible; in the event that any part of this permit is invalidated, the Secretary will advise as to the effect of such invalidation.

#### 11.20 Effect of Permit

Authorizations issued pursuant to this permit shall remain in effect for five years from the date of the authorization being signed.

#### 11.21 Sharing Responsibility

Implementation of one or more of the minimum measures or measures taken to implement a TMDL or WQRP may be shared with another entity, or another entity may fully take over the measure. VTrans may rely on another entity only if:

1. The other entity, in fact, implements the control measure,
2. The particular control measure, or component of that measure, is at least as stringent as the corresponding NPDES permit requirement, and
3. The other entity agrees to implement the control measure on VTrans' behalf. Written acceptance of this obligation is required. This obligation

shall be maintained as part of the SWMP. If the other entity agrees to report on the minimum measures or TMDL or WQRP implementation activities, VTrans shall supply the other entity with the reporting requirements contained in this permit. If the other entity fails to implement the control measure on behalf of VTrans or if VTrans and the entity no longer have an agreement, VTrans remains responsible for compliance with the obligations and requirements of this permit.

## **PART 12: APPEALS**

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. Pursuant to 10 V.S.A. Chapter 220, an aggrieved person shall not appeal this 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. 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](http://www.vermontjudiciary.org). The address for the Environmental Division is: 32 Cherry St.; 2nd Floor, Suite 303; Burlington, VT 05401 (Tel. # 802-828-1660).

## **PART 13: DEFINITIONS**

As used in this permit, the following terms shall have the specified meaning, unless a different meaning is clearly intended by the context. If a term is not defined, it shall have its common meaning.

**Active mining activities** means activities related to the extraction, removal or recovery, and beneficiation of non-metallic minerals from the earth; removal of overburden and waste rock to expose mineable minerals; and site reclamation and closure activities. All such activities occur within the "active mining area." Reclamation involves activities undertaken, in compliance with applicable mined land reclamation requirements, to return the land to an appropriate post-mining contour and land use in order to meet applicable federal and state reclamation requirements. In addition, once earth-disturbing activities conducted prior to active mining activities have ceased and all related requirements in Subpart 7.10 have been met, and a well-delineated "active mining area"

has been established, all activities (including any clearing, grading, and excavation) that occur within the active mining area are “active mining activities.”

**Active mining area** means a place where work or other activity related to the extraction, removal, or recovery of non-metallic minerals is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.

Note: Earth-disturbing activities that occur on areas outside the active mining area (e.g., for expansion of the mine into undeveloped territory) are considered “earth-disturbing conducted prior to active mining activities”, and must comply with the requirements in Subpart 7.10.

**Agency** means the Vermont Agency of Natural Resources.

**Approved Total Maximum Daily Load (TMDL)** means a TMDL that is developed by a State and approved by EPA as well as a TMDL that is developed and established by EPA.

**Authorization to discharge** means an authorization to discharge issued by the Secretary pursuant to a general permit.

**Best management practices or BMPs** means a schedule of activities, prohibitions or practices, maintenance procedures, green infrastructure, and other management practices to prevent or reduce water pollution.

**BMP** – see the definition of “best management practices.”

**Clean Water Act or CWA** means the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

**Co-located industrial activities** means any industrial activities, excluding your primary industrial activity(ies), located on-site that are defined by the stormwater regulations at 40 C.F.R. § 122.26(b)(14)(i)-(ix) and (xi). An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the stormwater regulations.

**Construction activities** means all clearing, grading, excavation, and stockpiling activities that will result in the disturbance of land, except for earth disturbance that is a normal part of the long-term use or maintenance of a property (e.g. active mining operations, dirt road regrading, and routine road resurfacing). For mining operations, “construction and construction-related activities” means the construction or exploration phase, not the active mining phase.

**Common plan of development** means a development that is completed in phases or stages when such phases or stages share a common state or local permit related to the regulation of land use, the discharge or wastewater or a discharge to surface waters or



groundwater, or a development designed with common infrastructure. Common plans include subdivisions, industrial and commercial parks, university and other campuses, and ski areas.

**Control measure** means any BMP or other method, including effluent limitations, used to prevent or reduce the discharge of pollutants to waters.

**Corrective action** means any action taken, or required to be taken, to (1) repair, modify, or replace any stormwater control used at the site; (2) clean-up and dispose of spills, releases, or other deposits found on the site; or (3) remedy a permit violation.

**CWA** – see the definition of “Clean Water Act.”

**Designer** means any person whose qualifications are acceptable to the Secretary. The Secretary may require the plans required by this permit be prepared by a professional engineer practicing within the scope of their engineering specialty and licensed in the State of Vermont, if necessary to protect the public or the environment.

**Development** means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed. “Tract or tracts of land” means a portion of land with defined boundaries created by a deed; a deed may describe one or more tracts.

**Discharge** means the placing, depositing, or emission of any wastes, directly or indirectly, into an injection well or into the waters of the State.

**Discharge point** means for purposes of this permit, the location where collected and concentrated stormwater flows are discharged from a facility such that the first receiving waterbody into which the discharge flows, either directly or through a separate storm sewer system, is a water of the State.

**EPA** means the United States Environmental Protection Agency.

**Existing discharger** means an operator applying for coverage under this permit for discharges authorized previously under a NPDES general or individual permit.

**Existing impervious surface** means an impervious surface that is in existence, regardless of whether it ever required a stormwater discharge permit.

**Expansion** means an increase or addition of new impervious surface to an existing impervious surface, such that the total resulting impervious surface is greater than the minimum regulatory threshold.

**Facility or Activity** means any NPDES “point source” (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

**Feasible** means technologically possible as well as practicable and achievable in light of best industry practices.

**Flow restoration targets** mean the high and low flow targets as stated in the stormwater TMDLs for Allen Brook, Bartlett Brook, Centennial Brook, Englesby Brook, Indian Brook, Moon Brook, Morehouse Brook, Munroe Brook, Potash Brook, Rugg Brook, Stevens Brook, and Sunderland Brook.

**Hazardous material(s) or hazardous substance(s) or toxic material(s) or toxic substance(s)** means any liquid, solid, or contained gas that contain properties that are dangerous or potentially harmful to human health or the environment.

**Illicit connection** means any man-made conveyance connecting an illicit discharge directly to the transportation separate storm sewer system.

**Illicit discharge** - means any discharge to the stormwater systems of the TS4 that is not authorized by this permit or another discharge permit.

**Impaired water** means a water identified by a State or EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards. Impaired waters include both waters with approved TMDLs, those for which a TMDL has not yet been approved, and those covered by pollution control requirements that meet the requirements of 40 C.F.R. § 130.7(b)(1).

**Impervious surface** means those man made surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

**Inactive mineral mining facility** means a site or portion of a site where mineral mining or milling occurred in the past, but there are no active mining activities occurring as defined above, and where the inactive portion is not covered by an active mining permit issued by the applicable state or federal agency. An inactive mineral mining facility has an identifiable owner/operator. Sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, and sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim are not considered either active or inactive mining facilities and do not require an industrial stormwater permit.

**Maximum extent practicable or MEP** means the requirement set forth in 402(p)(3)(B)(iii) of the federal Clean Water Act (33 U.S.C.A. § 1342(p)(3)(B)(iii)) that permits for discharges from municipal storm sewers include controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system, design and engineering methods, and such other provisions as the Secretary determines appropriate for the control of such pollutants.

**Measurable storm event** means a precipitation event that results in a measurable amount of precipitation (i.e., a storm event that results in an actual discharge) and that follows the preceding storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events.

**MEP** - see the definition of “maximum extent practicable.”

**Mining operations** – For this permit, mining operations are grouped into two distinct categories, with distinct effluent limits and requirements applicable to each: a) earth-disturbing activities conducted prior to active mining activities); and b) active mining activities, which includes reclamation. “Mining operations” can occur at both inactive mining facilities and temporarily inactive mining facilities.

**MS4** – see the definition of “municipal separate storm sewer system.”

**Municipal separate storm sewer system or MS4** means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains: (i) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

**New discharger** means a facility from which there is a discharge, that did not commence the discharge at a particular site prior to August 13, 1979, which is not a new source, and which has never received a finally effective NPDES permit for discharges at that site. For purposes of this permit, a facility that is part of VTrans designated regulated small MS4 is a “new discharger,” if it discharges stormwater from a new facility with an entirely new separate storm sewer system that is not physically located on the same or adjacent land as an existing facility and associated system operated by VTrans.

**New source** means any building, structure, facility, or installation from which there is or may be a discharge the construction of which commenced after promulgation of standards of performance under section 306 of the CWA which are applicable to such source, or after proposal of standards of performance in accordance with section 306 of the CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**NOI** - see the definition for “notice of intent.”

**Non-stormwater discharges** means discharges that do not originate from storm events. They can include discharges of process water, air conditioner condensate, non-contact cooling water, pavement wash water, external building washdown, irrigation water, or uncontaminated ground water or spring water.

**Notice of intent or NOI** means the form required for authorization under this permit.

**NPDES** means the National Pollutant Discharge Elimination System for the issuance of permits under section 402 of the federal Clean Water Act and includes the Vermont-administered program authorized by the federal Environmental Protection Agency.

**Operator** means an entity that has operational control over activities, including the ability to make modifications to those activities, or an entity that has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit.

**Outfall** – see the definition of “discharge point.”

**Permittee** means a person who has received authorization from the Secretary to discharge pursuant to this permit.

**Person** means any individual, partnership, company, corporation, association, joint venture, trust, municipality, the state of Vermont or any agency, department, or subdivision of the State, any federal agency, or any other legal or commercial entity.

**Point source** means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

**Pollutant** means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. This term does not mean: (A) “sewage from vessels” within the meaning of section 1322 of the Clean Water Act; or (B) water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located, and if such State determines that such injection or disposal will not result in the degradation of ground or surface water resources.

**Pollutant of concern** means a pollutant which causes or contributes to a violation of a water quality standard, including a pollutant which is identified as causing an impairment on the State's 303(d) list.

**Primary industrial activity** includes any activities performed on-site which are: (1) identified by the facility's primary SIC code and included in the descriptions of 40 C.F.R. § 122.26(b)(14)(ii), (iii), (vi), or (viii); or (2) included in the narrative descriptions of 40 C.F.R. § 122.26(b)(14)(i), (iv), (v), (vii), or (ix). [For co-located activities covered by multiple SIC codes, it is recommended that the primary industrial determination be based on the value of receipts or revenues or, if such information is not available for a particular facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity.] Narrative descriptions in 40 C.F.R. § 122.26(b)(14) identified above include: (i) activities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards; (ii) hazardous waste treatment storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of the Resource Conservation and Recovery Act (RCRA); (iii) landfills, land application sites and open dumps that receive or have received industrial wastes; (iv) steam electric power generating facilities; and (v) sewage treatment works with a design flow of 1.0 mgd or more.

**Qualified personnel** means those persons who possess the knowledge and skills to assess conditions and activities that could impact stormwater quality, and who can also evaluate the effectiveness of control measures.

**Receiving waters** – means all waters adjacent to a discharge, and all downstream or other waters the quality of which may be affected by that discharge.

**Redevelopment** means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new construction involves substantial site grading, substantial subsurface excavation, or substantial modification of existing stormwater conveyance. Redevelopment does not mean management activities on impervious surfaces, including any crack sealing, patching, coldplaning, resurfacing, paving a gravel road, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads. Redevelopment does not include expansions.

**Regulated stormwater runoff** means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

**Runoff coefficient** means the fraction of total rainfall that will appear at the conveyance as runoff.

**Run-on** means sources of stormwater that drain from land located upslope or upstream from the regulated facility in question.

**Secretary** means the Secretary of the Vermont Agency of Natural Resources or the Secretary's duly authorized representative.

**Significant materials** includes raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges.

**Small municipal separate storm sewer system or small MS4** is defined at 40 C.F.R. § 122.26(b)(16) and refers to all separate storm sewers that are owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the CWA that discharges to waters of the State, but is not defined as a large or medium municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

**Spill** means the release of a hazardous or toxic substance from its container or containment.

**Storm event** means a precipitation event that results in a measurable amount of precipitation.

**Stormwater** – stormwater runoff, snow melt runoff, and surface runoff and drainage.

**Stormwater controls** – see the definition of “control measure.”

**Stormwater discharges associated with construction activity** means a discharge of pollutants in stormwater runoff from areas where soil disturbing activities (e.g., clearing, grading, or excavating), construction materials, or equipment storage or maintenance (e.g., fill piles, borrow areas, concrete truck washout, fueling), or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

**Stormwater discharges associated with industrial activity** means the discharge from any conveyance that is used for collecting and conveying stormwater and that is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant.

The term does not include discharges from facilities or activities excluded from the NPDES program under Part 122. For the categories of industries identified in this section, the term includes, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the purposes of this paragraph, material handling activities include storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities include those that are federally, State, or municipally owned or operated that meet the description of the facilities listed in 40 C.F.R. § 122.26(b)(14). The term also includes those facilities designated under the provisions of 40 C.F.R. § 122.26(a)(1)(v).

**Stormwater Management Program or SWMP** means the comprehensive program to manage the quality of stormwater discharged from the TS4 as described in Part 5.

**Stormwater runoff** – see the definition of “regulated stormwater runoff.”

**STP** means a stormwater treatment practice, which is a specific device or technique designed to provide stormwater quality treatment or quantity control.

**SWMP** – see the definition of “Stormwater Management Program.”

**Temporarily inactive mineral mining facility** means a site or portion of a site where non-metallic mineral mining or milling occurred in the past but currently is not being actively undertaken, and the facility is covered by an active mining permit issued by the applicable state or federal agency.

**TMDL** – see the definition of “total maximum daily load.”

**Total Maximum Daily Load or TMDL** means the calculations and plan for meeting water quality standards approved by the U.S. EPA and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law. A TMDL is the sum of the individual waste load allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other

appropriate measure. If BMPs or other nonpoint source pollution controls make more stringent LAs practicable, then WLAs can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

**Total resulting impervious surface** means the total impervious area resulting from the creation of impervious surface and any impervious that is part of a “common plan of development.”

**TS4** means VTrans owned or controlled state highways, sidewalks, multi-use pedestrian paths, welcome centers, airports, gravel pits, mineral mining facilities, maintenance facilities, park & rides, truck weigh stations, and other impervious surfaces, and VTrans-owned facilities leased to third parties, except for rail lines, rail yards, public transit facilities, and rail trails.

**Uncontaminated** means a discharge that does not cause or contribute to an exceedance of applicable water quality standards.

**Vermont Stormwater Management Manual** means the Agency of Natural Resources’ Stormwater Management Manual, as adopted and amended by rule.

**VTrans** - the Vermont Agency of Transportation.

**VTrans designated regulated small MS4** means state highways and VTrans owned or controlled non-road impervious surfaces in the urbanized areas and stormwater-impaired watersheds of Burlington, Colchester, Essex, Essex Junction, Milton, Shelburne, South Burlington, Williston, Winooski, the University of Vermont, the Burlington International Airport, Jericho, Underhill, St. Albans, the Town of St. Albans, the Town of Rutland, and the City of Rutland.

**Water Quality Standards** means the Vermont Water Quality Standards adopted and amended by rule.

**Waters and waters of the State** include all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and bodies of surface waters, artificial or natural, which are contained within, flow through or border upon the State or any portion of it. “Waters of the State” include all “waters of the United States” as defined at 40 C.F.R. § 122.2.

**You and your** as used in this permit, are intended to refer to the permittee, the operator, or the discharger as the context indicates and that party’s facility or responsibilities. The use of “you” and “your” refers to a particular facility and not to all facilities operated by a particular entity. For example, “you must submit” means the permittee must submit something for that particular facility. Likewise, “all your discharges” would refer only to discharges at that one facility.



#### **PART 14: EFFECTIVE DATE AND TERM OF GENERAL PERMIT**

This permit shall become effective on November 29, 2022 and shall expire on November 28, 2027.

Signed at Montpelier, Vermont this 27th day of October, 2022.

Julia S. Moore, Secretary  
Vermont Agency of Natural Resources

By \_\_\_\_\_  
Peter LaFlamme, Director  
Watershed Management Division