

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

**FACT SHEET**

**NPDES GENERAL PERMIT 3-9007 FOR STORMWATER DISCHARGES FROM THE  
TRANSPORTATION SEPARATE STORM SEWER SYSTEM (TS4)**

**I. Permit Modification and Program Background**

The Vermont Agency of Natural Resources (Agency) is modifying the National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from all Vermont Agency of Transportation (VTrans) owned or controlled impervious surfaces<sup>1</sup>. The permit is called the Transportation Separate Storm Sewer System General Permit (TS4 GP) and was originally issued on December 28, 2016.

The TS4 GP was appealed on January 27, 2017. The appeal was resolved on October 2, 2017 through the “Stipulation, Settlement Agreement, and Order Between R.L. Vallee, Inc. et al and the Agency of Natural Resources Regarding Docket No. 7-1-17 Vtec” (Settlement Agreement), signed by the parties and entered with and signed by the Environmental Division of the Vermont Superior Court.

Pursuant to the Settlement Agreement the Agency agreed to make several modifications to the TS4 GP, which are now being noticed. Any appeal of the TS4 GP shall be limited to those modifications (40 C.F.R. § 122.62). The changes include modifying the language in Part 4.1 regarding the applicable water quality standards to be consistent with federal law, modifying the definition of “receiving water” in Part 13 to be consistent with the definition in the Vermont Water Quality Standards, modifying the definition of “feasible” in Part 13 to remove the word “economically,” and deleting the definition of “infeasible” in Part 13 since it is unnecessary.

As background, the TS4 GP, includes the post-construction operational stormwater requirements for VTrans associated with its designated regulated small municipal separate storm sewer systems (MS4s); industrial activities, 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; and satisfies the 3-acre permitting requirement.

Additionally, in order to meet the requirements of the Lake Champlain Phosphorus total maximum daily loads (TMDLs) and to ensure water quality protection across the entire State, the TS4 GP requires VTrans to develop a Phosphorus Control Plan (PCP) for its stormwater discharges in the Lake Champlain Basin and requires VTrans to reduce the discharge of

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<sup>1</sup> Excluding rail lines, rail yards, public transit facilities, and rail trails.

pollutants from the TS4 to the maximum extent practicable (MEP) through compliance with the six minimum control measure requirements throughout the entire State.

## **II. General Permit Authority**

The draft TS4 General 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.

## **III. Purpose of the Draft Permit**

The TS4 General Permit is the Agency's primary regulation for ensuring that stormwater from VTrans owned or controlled impervious surface is managed in conformance with State water quality policy, including implementation of the Lake Champlain and other TMDLs, protection of high-quality waters statewide, and the Vermont Water Quality Standards (VWQS).

The TS4 combines VTrans' stormwater permit requirements into one permit, allowing for a comprehensive approach to stormwater management across all of VTrans owned or controlled impervious surfaces. VTrans owns and maintains a diverse set of infrastructure including existing highways, airports, gravel pits, welcome centers, maintenance facilities, and multi-use pedestrian paths. These facilities are dispersed throughout the State and based on activity, location, or size of impervious surface, are required to implement multiple state stormwater permits. Combining the various stormwater requirements into one permit creates both program management and administrative efficiencies for both VTrans and the Department of Environmental Conservation.

To meet the requirements of the Lake Champlain Phosphorus TMDLs and to ensure water quality protection across the entire State, the TS4 GP requires VTrans to develop a Phosphorus Control Plan for its stormwater discharges in the Lake Champlain Basin and requires VTrans to reduce the discharge of pollutants from the TS4 to the maximum extent practicable (MEP) through compliance with the six minimum control measure requirements throughout the entire State.

VTrans, through the TS4 GP, must develop a comprehensive Phosphorus Control Plan (PCP) for the TS4 in the Lake Champlain Basin. The plan must identify erosion mitigation opportunities and impervious surface retrofits that coincide with VTrans' ongoing operations and maintenance program. VTrans will prioritize retrofit opportunities during new construction and redevelopment projects. This approach provides VTrans the ability to effectively budget and plan to achieve the TMDL targets in conjunction with maintaining the statewide transportation

network. The TS4 GP also requires VTrans to continue with implementation of the Flow Restoration Plans (FRPs) for stormwater-impaired waters that were required under VTrans' MS4 General Permit authorization.

#### **IV. Permit Organization and Applicability**

The TS4 General Permit is organized into separate parts that include the requirements of the previously issued state stormwater permits. Permit requirements that are similar for each of the state permits are grouped together. These include Part 1, Background and Authority; Part 2, Coverage Under This Permit; Part 3, Application Requirements; Part 4, Discharge Requirements; Part 10, Record Keeping and Reporting; Part 11, Standard Permit Conditions; Part 12, Appeals; Part 13, Definitions; and Part 14, Effective Date. The following parts are the specific permit requirement for each of the stormwater permits, in addition to new Lake Champlain TMDL implementation requirements.

Part 5 is the Stormwater Management Program (SWMP). The SWMP is the comprehensive plan for all stormwater discharges in the TS4 and shall include the information required, as necessary, under Part 3; the information required under Part 4 to address discharges to impaired waters; the required elements under the six minimum control measures described in Part 6; the 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.

Part 6 is the Minimum Control Measures (MCMs) included from the six MCMs in the MS4 permit. Part 6 applies to the entire TS4. To reduce its discharge of pollutants from the TS4 to the maximum extent practicable MEP, VTrans must implement, across the entire TS4: 1) a public education and outreach campaign, 2) a public involvement and participation program, 3) an illicit discharge detection and elimination program, 4) a construction site stormwater runoff control program, 5) a post-construction stormwater management program for new and redevelopment, and 6) a pollution prevention and good housekeeping program for all VTrans maintenance and operations.

Part 7 is the Industrial Activity Control Measures included from the 2015 EPA MSGP. Part 7 applies to non-metallic mineral mining and airport transportation facilities owned and controlled by VTrans. VTrans owns and operates several gravel extraction operations throughout the State that currently have MSGP permit coverage. VTrans must apply for TS4 permit authorization for these facilities. Additionally, VTrans owns and operates several regional airports. VTrans must apply for TS4 permit authorization at these airports in conjunction with additional private airport operators. At the same time that VTrans submits a Notice of Intent (NOI) for TS4 authorization, all private airport operators will submit individual NOIs.

Part 8 is the Stormwater Discharges from Impervious Surfaces requirements for previously permitted, new, redeveloped, and expanded impervious surfaces commonly regulated under the State Operational Permit. For all VTrans new impervious surface, redevelopment, and

impervious surface expansions that trigger Vermont stormwater permit jurisdiction, VTrans may submit NOIs to amend their TS4 permit authorization.

Part 9 is the TMDL Implementation requirements. Part 9 applies to the TS4 in the Lake Champlain watershed and the stormwater impaired watersheds. Part 9 includes the stormwater impaired waters Flow Restoration Plan (FRP) requirements included in the previously issued MS4 permit. VTrans must continue to implement the stormwater impaired waters requirements and follow the previously approved compliance schedule. As part of the requirements in Part 9, VTrans must develop a Phosphorus Control Plan (PCP) for the TS4 in the Lake Champlain watershed. This part includes a compliance schedule for PCP implementation not to exceed 20 years from the issuance date of the Lake Champlain TMDLs.

#### **IV. Public Notice and Comment Period**

The Secretary provided a 31-day public comment period on the draft general permit from October 23, 2017 through November 22, 2017. Interested parties submitted written comments on the general permit to the Department by November 22, 2017. All relevant comments were considered by the Secretary in finalizing this general permit.

A public information meeting was held on Tuesday, November 21, from 1 to 3 pm, in the Winooski Room in the Watershed Management Division office at 1 National Life Drive in Montpelier, VT. At the meeting, Department staff were available to answer questions concerning the general permit.

A copy of the TS4 General Permit and related documents may be downloaded from:  
<http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees>

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

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