



3-Acre Permit Obtainment Assistance (POA) Program Frequently Asked Questions (FAQs)

Q1: I have questions about whether my site is a 3-acre site or what regulations my site is subject to.

A1: Any questions regarding the regulatory nature of your site and regulatory requirements at your site should be directed to the Vermont Department of Environmental Conservation (DEC) Stormwater Program, more specifically your district reviewer: [contact information found on this map](#).

Q2: Does this program fund construction?

A2: No, the Permit Obtainment Assistance (POA) program only covers Phase 1 design and permitting costs. ARPA presents an opportunity to put this influx of federal funding to use and make a major investment in this important regulatory program and offset costs of compliance for landowners now. Due to the timebound nature of ARPA funds, investing heavily in design, engineering, and permit obtainment costs for most Three-Acre properties will help the largest number of owners come into compliance with the requirement to obtain permit coverage.

Q3: What are “Phase 1” costs?

A3: “Phase 1” in the Permit Obtainment Assistance (POA) program refers to the design and permitting activities required for your site to obtain a Three-Acre Permit. Phase 2 refers to the construction of the permitted stormwater management system.

Q4: How much of my Phase 1 (design and permitting costs) can be covered by the POA program?

A4: All qualifying sites will be eligible for up to \$49,999 in beneficiary payments. Up to \$19,999 is reserved for permit review costs incurred during the Full Notice of Intent (i.e., final permit application/authorization) submission and review process. Up to \$30,000 is reserved for engineering costs/invoices (Note: Manufactured Housing Communities (MHCs) are not subject to these cost caps within the \$49,999 total). The site’s permittee/landowner is responsible for covering design and permitting costs that exceed the amount available through the POA program. Please see Q7 to learn about other eligible expenses for left over award funds.

Q5: What qualifies as an ineligible construction cost? Can I use my POA award to pay for engineering construction oversight ahead of construction, such as bidding oversight?

A5: POA funds can be used for any costs related to three-acre design and permitting compliance as long as they happened before the signing of construction agreements. After this milestone, all costs are considered construction costs and thus not eligible. If you have any questions about whether a cost is eligible, reach out to daniel.bouwens@vermont.gov.

Q6: Is other funding available to help Three-Acre properties construct projects to comply with the Three-Acre Permit requirements?

A6: We acknowledge that Three-Acre properties may face costs to construct projects after permit obtainment (construction, if needed, is required within 5 years following permit authorization). The state is presently using some ARPA funds to cover construction costs for high needs sites such as public schools and manufactured housing communities. Longer term, as required by law, the state plans to develop a financing program to help 3-acre properties secure low-cost financing to construct.

Q7: My site is required to obtain additional permits on top of a three-acre permit in order to construct the stormwater treatment system. Can I use my POA award to fund the other permits I need for 3-acre compliance?

A7: Yes, POA beneficiaries may use any remaining funds in *either* cost category of their award to reimburse other permitting costs after the project has reached a certain level of completion.

Some 3-acre sites may be required to obtain additional permits on top of a three-acre permit in order to construct the stormwater treatment system. Other permits may include Act 250, Flood Hazard Area & River Corridor permit, Wetlands permit, etc. We urge beneficiaries to speak with their engineers early in the project about what other permits may be necessary. Beneficiaries may seek reimbursement for these expenses using the remaining funds in *either* the engineering or permit review fee cost categories only once their stormwater permit application at least reaches the "Public Comment" period (milestone 3).

Q8: My site was deemed "infeasible for treatment" and is now required to pay Impact Fees. Can I use my POA award to cover this?

A8: Yes, the POA award may be used to cover Impact Fees if deemed infeasible for treatment. However, beneficiaries should note that a three-acre permit is still required in these cases, so the permit application must reach at least "Public Comment" before the site may invoice for Impact Fees.

Beneficiaries may elect to have eligible impact fees to be processed internally by DEC using the remaining funds in their award. The beneficiary must fill out the [3-Acre POA Impact Fees Authorization Form](#) and submit it to ANR.ARP3ACSW@vermont.gov to be eligible for internal processing of impact fees. If the impact fee exceeds the remaining funds available in the POA award, the beneficiary will be invoiced and is required to cover the remainder/exceedance before they will receive their authorized permit. Please note that the POA program must retain \$4,999 of the POA award until permit authorization is reached. Once the impact fee is paid in full and the beneficiary has their permit authorization, they may invoice against their POA award for the retainer amount of \$4,999.

Q9: Are annual operating fees or annual inspections eligible costs under the POA Program?

A9: No, annual operating fees and annual inspections are not eligible costs under the POA program, and are the responsibility of the permittee.

Q10: My project will likely need to secure easements either pre-permitting or after the permit is issued. Can my award be applied to Town/owner legal fees from work associated with securing easements?

A10: Yes, if there are funds left over in the award, legal fees related to obtaining easements for 3-acre work can be an eligible expense under POA with program approval. See question 7 for more details.

Q11: Do I need to wait until my project is complete to invoice/request payment, or can I invoice/request payment throughout the project?

A11: Your payment structure/invoicing options depend on where your project is in the permit process upon applying to the POA program. If you already applied for Three-Acre Permit coverage (i.e., Full Notice of Intent submittal), you will be reimbursed for costs incurred following Three-Acre Permit obtainment/authorization, as long as all work occurred on/after March 3, 2021. If you had not yet submitted a Three-Acre Permit application (i.e., Full Notice of Intent submittal) by the time you applied for POA funds, you may invoice periodically while your Three-Acre Permit project is in progress. If your site is deemed eligible upon application review, the beneficiary will receive an award letter with additional information about award structure and invoicing milestones.

Q12: Under the POA program Award Pathway 2, the first optional milestone is an “Informal Check-in with the Stormwater Program”. Can I use my site’s Initial Notice of Intent (iNOI) as a deliverable for this milestone?

A12: Beneficiaries may use their iNOI as a deliverable for this milestone if they choose, however it should be noted that the iNOI is different from the Informal Stormwater check-

in. While the iNOI includes submitting preliminary site information to the Stormwater Program, the check-in involves submitting, at a minimum, a copy of a draft Engineering Feasibility Analysis to the district analyst ahead of the Full NOI application. Unlike the iNOI, the check-in will provide the site and their engineer with vital feedback regarding their current design plans. The POA program urges program participants to still pursue the Informal Stormwater check-in whether or not they are utilizing it as a deliverable, as it will heavily contribute to the success of the site's Full Notice of Intent application. In addition, beneficiaries should be aware that if they choose to use the iNOI for the first invoicing milestone, there may be a long span of time before they reach the next opportunity to invoice (Full Notice of Intent submission).

Q13: Can I get reimbursed for the application fees I incurred when I submitted my Initial Notice of Intent (iNOI)?

A13: Yes, as long as the initial Notice of Intent application fee was incurred after March 3, 2021, you may be reimbursed for the incurred expense. If you are following Payment Pathway 2, you must wait until your site reaches Milestone 3 to be reimbursed for this incurred expense, because it is classified as an "Other Permit Fee". See question 7 for more information.

Q14: Are there any flexibilities for Manufactured Housing Communities (MHCs)?

A14: Some MHCs elected to participate in a separate funding program titled Permit Obtainment Engineering Services for Manufactured Housing Communities (MHC). Those MHCs that did not participate in that program are eligible to participate in the POA program. MHC beneficiaries are still subject to the \$49,999 total award cap, but can use the \$49,999 flexibly across POA program cost categories for engineering costs and permit review costs instead of being subject to caps within these cost categories.

Q15: My site was a 3-acre site when I applied and received POA funding but now it is not. Can I still use my POA award for expenses we've incurred?

A15: The POA program is designed to support design and permitting expenses through to permit authorization until/unless your site is no longer a 3-acre site. There are a few reasons a site may no longer be considered a 3-acre site subject to General Permit 3-9050.

1. The Engineering Feasibility Analysis (EFA) resulted in a more refined estimate of impervious surfaces and determined the site had less than 3 acres of impervious surfaces.
2. Your site received permit authorization, and your designed plan was to remove impervious acreage and that has been completed, resulting in your site now being "sub 3-acres."
3. Your site has been integrated into an Municipal Storm Sewer System (MS4) permit (see question 16).

Under the first scenario, you may bill for all relevant and eligible expenses incurred up until it was determined your site was no longer three acres. After payout for these final expenses, your award will be closed out.

Under the second scenario, your POA award can cover all expenses through permit authorization since your site was still subject to permitting requirements. Your POA award will not cover any costs of impervious removal.

Under the third scenario, you may still be eligible to bill against your POA award up until the MS4 submits an NOI to amend their permit to include your site. Please refer to Question 16 for more information.

Q16: What does it mean for my 3-acre site to be integrated into a Municipal Storm Sewer System (MS4) permit?

A16: When 3-acre sites have been integrated into a MS4 permit, the municipality has assumed full legal responsibility for the 3-acre site impervious surfaces subject to a stormwater permit. The municipality's MS4 permit includes both phosphorus and stormwater volume reduction targets applied cumulatively across the municipality and the municipality is not obligated to install a stormwater treatment practice on the 3-acre site to specifically address stormwater runoff from the 3-acre site. In these instances, the need for a separate 3-acre permit is removed and so the site is no longer considered a 3-acre site subject to Stormwater General Permit 3-9050.

Landowners located within an MS4 community may consult with their municipal representatives to confirm if their site is integrated into the applicable MS4 permit. [See list of MS4 communities here](#). Below is the process in which an MS4 integrates a 3-acre site into their permit:

1. An MS4 works with the 3-acre site to meet the MS4 requirements
2. The MS4 submits a Notice of Intent (NOI) for amending their MS4 permit

authorization

3. The Stormwater Program reviews the amendment
4. The NOI goes on public notice
5. The Stormwater Program issues amended authorization, and the 3-acre site is formally integrated into the MS4's permit.

If you already hold a POA award and learn that the MS4 that your site is located within is interested in pursuing incorporating your site, you may still be eligible to bill against your POA award up until the MS4 submits an NOI to amend their permit to include your site. At this point, we would accept a final invoice for eligible expenses occurred to date and your award would be closed out.

Q17: How do I find an engineer?

A17: Engineer selection is the responsibility of the beneficiary. Attached is a [list of Stormwater Engineering Firms](#) in the Vermont area. Please note this is not an endorsement of any of the listed firm.

Q18: Can the program pay my engineer directly?

A18: Yes, for projects that have not yet submitted a Three-Acre Permit application, beneficiaries can elect to have their engineering invoices paid to their engineer directly by DEC. Please fill out the [Direct Payment Form \(DPF\)](#) and submit it to ANR.ARP3ACSW@vermont.gov. Third parties as identified on the DPF must plan to submit a W-9 and complete work or have already completed work associated with obtaining a Three- Acre Permit on behalf of the Beneficiary.

Application Questions

Q19: Where can I find the POA application?

Q19: We are no longer accepting applications for the POA program.

Q20: How do I determine if my site is eligible?

A20: Eligibility determination will be made on a case-by-case basis after the applicant submits an application. Most 3-acre sites located in the Lake Memphremagog, Lake Champlain, and stormwater impaired basins are eligible under the POA program except:

- State and federally owned properties
- Manufactured Housing Communities (MHCs) participating in the state-provided 3- acre permit engineering services contract
- Public schools eligible to participate in the Green Schools Initiative

- Businesses that do not attest they are a "small business enterprise" (See Q20)
- 3-acre sites that have been integrated into a Municipal Separate Storm Sewer System (MS4) permit phosphorus reduction target (see question 3).

Q21: Does my site still qualify if my site has received other funding assistance for our 3-acre permitting project?

A21: If the Beneficiary has secured additional funding from sources such as grants or loan forgiveness (e.g., through the Clean Water State Revolving Fund), they may still qualify for POA funds. POA program funds can only be used to cover the remaining balance of the Beneficiary's permit obtainment costs that are not covered by other sources.

Q22: When do I need to apply for funding through this program?

A22: You must fill out an application for this program before September 30th, 2024. This is the federal deadline by which all American Rescue Plan Act (ARPA) dollars must be committed to projects (ARPA is the funding source for the POA program). However, funds are finite and may run out before that time. Due to this, applicants are strongly encouraged to apply before **September 1st, 2024.**

Q23: My site is owned by a for-profit business. What do I need to do to apply?

A23: Only small business enterprises are eligible for POA funding. To be considered a small business, you must first self-certify you are a small business at SAM.gov BEFORE applying for the POA program. Click [here](#) for the steps required to register your business. Please note that our program will not require you to have a UEI or NAICS code to apply (steps 1&2), but you may need that information when registering with SAM.gov (step 4).

Q24: My site is a non-profit business. Do I still need to certify as a small business?

A24: No, nonprofits do not need to self-certify. They must instead identify as a nonprofit in their POA application when asked to describe the entity. Please note, the program may reach out to you for nonprofit status verification.

Q25: If I'm part of an owner's association subject to the three-acre rule (like a homeowners association or stormwater association), who or what needs to meet the small business requirement?

A25: [An association of owners](#) subject to the three-acre rule, such as homeowners associations or stormwater associations, can participate in the program as long as one member of the association is eligible. Eligible members of such associations may include individual homeowners, certified small businesses, non-profits compliant with the [Vermont Nonprofit Corporation Act](#), or municipally-owned entities. If all members of the

association are businesses, at least one member of the association should meet the small business requirement.

It's important to note that the filing status or organizational structure of the "association of owners" is not what the program considers. Instead, eligibility determination focuses on the site owners themselves.

Q26: The POA program application is closing on September 30, 2024 but I am a small business and my Sam.gov verification is taking a long time. Can I apply to the program while my Sam.gov verification is still processing?

A26: Due to this time crunch, the POA program will allow applicants with pending small business verification attestations to still apply for funding to ensure they can still receive an award. In the application, select "Yes" when asked if you have done the verification so the application doesn't show an error message. Please note, however, the program highly recommends that beneficiaries continue to pursue this process and retain proper paperwork as these funds preclude large businesses. Therefore, if there is ever an audit of the program and beneficiary awards, beneficiaries may hold some risk of penalty if they are not able to prove their small business status at that time.

Q27: How can a site qualify as a Manufactured Housing Community (MHC)/Mobile Home Park (MHP) under this program?

A27: To qualify as a Manufactured Housing Community (MHC) or Mobile Home Park (MHP) under the POA program, sites must meet the definition of a "Mobile Home Park" outlined in Vermont's 2023 [Title 10 Chapter 153](#). According to this definition, a "Mobile Home Park" is any parcel of land under single or common ownership or control that contains, or is designed, laid out, or adapted to accommodate, more than two mobile homes. It's important to note that premises used solely for the storage or display of mobile homes do not fall under this definition. Sites meeting these specifications can be considered eligible for the additional MHC flexibility provided by the program. DEC staff will use the most recent [Mobile Home Park Registry](#) to verify MHC status when the beneficiary begins billing the program.

Q28: What is a Three-Acre Permit?

A28: The Three-Acre Permit requires discharge from some sites with "impervious surfaces of three or more acres," known as "3-acre sites" to secure permit coverage through DEC's Stormwater Program. Permitted 3-acre sites are then required to treat stormwater runoff from impervious surfaces—hard surfaces such as roof tops, roads, and parking areas—and reduce pollution entering our waters. Visit the DEC Stormwater Program's Stormwater General Permit 3-9050 webpage for more information.

Generally, 3- acres sites obtain permit coverage under General Permit 3-9050. However, some 3-acre sites may require coverage under an individual stormwater discharge permit (INDS). An INDS may be required when conditions must be added to the permit

language that are beyond the scope of the language in General Permit 3-9050. General Permit 3-9050 and INDS coverage for 3-acre sites are referred to as the “Three-Acre Permit.”