NPDES Number: VTS006747

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
VERMONT POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES)
INDIVIDUAL PERMIT 9303-9014
FOR STORMWATER DISCHARGES FROM THE CITY OF RUTLAND'S MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) AND CERTAIN DEVELOPED LANDS

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PART 1: PURPOSE AND AUTHORITY

1.1 Purpose

This permit is for stormwater discharges from the Municipal Separate Storm Sewer System (MS4) in the City of Rutland, Vermont, and to the extent of the municipality's boundaries, roads requiring permit coverage under 10 V.S.A. § 1264(c)(6), municipally owned or controlled impervious surfaces of three acres or greater requiring permit coverage under 10 V.S.A. § 1264(c)(7), and developed lands for which the City of Rutland has assumed full legal responsibility.

1.2 Authority

This permit is issued in accordance with the following state and federal laws and rules: the Vermont Water Pollution Control statute, 10 V.S.A. chapter 47, including §§ 1258, 1259, and 1264; the Vermont Stormwater Permitting Rule (Environmental Protection Rule, Chapter 22 ; the federal Clean Water Act (CWA), as amended, 33 U.S.C.A. § 1251 *et seq.*, including 33 U.S.C.A. § 1342(p); and regulations of the United States Environmental Protection Agency (EPA), including 40 C.F.R. Part 122.

PART 2: DISCHARGES AUTHORIZED UNDER THIS PERMIT

2.1 MS4 Permit Area

This permit covers all areas within the jurisdictional boundary of the City of Rutland served by or contributing to discharges from the Municipal Separate Storm Sewer System (MS4) owned and operated by the City of Rutland. In addition, the MS4 permit area includes, to the extent of the municipality's boundaries, municipal roads requiring permit coverage under 10 V.S.A. § 1264(c)(6), municipally owned or controlled impervious surfaces of three acres or greater requiring permit coverage under 10 V.S.A. 1264(c)(7), and developed lands for which the municipality has assumed full legal responsibility. Hereinafter these areas are collectively referred to as the "Rutland MS4."

2.2 Authorized Discharges

The following discharges are authorized under this permit, except as provided in Subpart 2.3:

1. Stormwater discharges. This permit authorizes stormwater discharges to waters of the State from the Rutland MS4, except as excluded in Subpart 2.3.

2. Non-stormwater discharges. This permit authorizes commingled discharges from the following non-stormwater sources with discharges of stormwater from the Rutland MS4, provided that these sources are not substantial contributors of pollutants:

   a) Water line flushing

   b) Landscape irrigation and lawn watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling

c) Diverted stream flows

d) Rising groundwater

e) Uncontaminated groundwater

f) Uncontaminated pumped groundwater

g) Discharges from potable water sources

h) Foundation drains 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

i) Uncontaminated condensate from air conditioners, coolers/chillers, and other compressors and from the outside storage of refrigerated gases or liquids

j) Irrigation water

k) Spring water

l) Uncontaminated water from crawl spaces

m) Flows from riparian habitats and wetlands

n) Discharges from emergency/unplanned fire-fighting activities.

o) Fire hydrant flushing

p) Pavement and external building wash waters to which no detergents or other chemicals have been added

q) Incidental windblown mist

r) De-chlorinated swimming pool discharges

2.3 Limitations on Coverage

Any discharges not expressly covered 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 NOI, the 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 covered under this permit, except for those mixed with: allowable non-stormwater discharges listed in Subpart 2.2, a discharge authorized by a different NPDES permit, or a stormwater 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 covered under this permit.

C. Discharges Currently or Previously Covered by Another Permit. These discharges are not covered under this permit:

1. Stormwater discharges associated with industrial activity as defined in 40 C.F.R. § 122.26(b)(14)(i)-(ix) and (xi);

2. 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. Endangered and Threatened Species and Critical Habitat Protection. This permit does not cover discharges that 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, unless the activity is authorized under a permit issued pursuant to 10 V.S.A. § 5408.

E. Discharges to Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Sites. Discharges to a federal CERCLA site are not covered under this permit.

2.4 Amendments

A. Public notice of amendments shall comply with the public noticing requirements for amendments under 10 V.S.A. Chapter 170 and the rules adopted thereunder.

B. Amendments considered to be "major amendments" under 10 V.S.A. Chapter 170 include:

1. Submittal of TMDL and Water Quality Remediation Plan (WQRP) implementation plans, including Stormwater Flow Restoration Plans (FRP), Thermal Restoration Plans, Phosphorus Control Plans (PCP), and submittal of phases or components of those plans.

2. Modifications of the SWMP that require technical review.

3. 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).

PART 3: DISCHARGE REQUIREMENTS

3.1 Discharges

The permittee shall develop, implement, and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and the Vermont Water Quality Standards.

3.2 Discharges to Impaired Waters

Impaired waters are those waters that the Secretary has identified pursuant to Section 303(d) of the CWA 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.

A. Discharges to Impaired Waters with an Approved TMDL

1. For any discharge covered by this permit to impaired waters with an approved TMDL, the permittee shall control discharges consistent with the assumptions and requirements of any wasteload allocation (WLA) applicable to the permittee in the TMDL. The permittee shall describe in the SWMP all measures that are being used to address this requirement.

2. If the applicable TMDL does not specify a WLA or other requirements either individually or categorically for the permittee's discharge and the permittee 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 permittee's discharge, the permittee 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. The permittee shall include in the annual reports and the SWMP the rationale supporting the permittee's assessment that such controls are adequate to meet the applicable TMDL requirements.

4. For discharges to the stormwater-impaired and thermal impaired section(s) of Moon Brook, the permittee shall comply with the requirements in Subparts 7.1 and 7.2.

5. For discharges to Lake Champlain or the Lake Champlain watershed, the permittee shall comply with the requirements in Subpart 7.3.

B. Discharges to Impaired Waters without an Approved TMDL

For any discharge covered by this permit, if the permittee 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," the permittee shall develop a response plan as part of its SWMP that addresses how any discharges, determined by the Agency to cause or contribute to the impairment, will be controlled to ensure compliance with the Vermont Water Quality Standards. The permittee may achieve an increased level of control through additional BMPs or enhancement of existing BMPs. The content of the response plan shall reflect the magnitude and complexity of the impairment and the regulated discharge's potential to contribute to the impairment. The permittee shall report on the implementation of the response plan in the annual report.

3.3 Antidegradation; Discharges to High Quality Waters

This permit is issued in conformance with the Vermont Antidegradation Policy in the Vermont Water Quality Standards and the Antidegradation Implementation Procedure. The primary goal of the Antidegradation Policy is to protect and maintain water quality and existing and designated uses. The Antidegradation Implementation Procedure is applied during the review of applications for any applicable permit for a new discharge to high quality waters in which compliance with the Vermont Water Quality Standards is evaluated. The Secretary may determine based on credible and relevant information and best professional judgment that a proposed change in permittee's activity, due to its potential impact to water quality, requires a site-specific Tier 2 analysis as part of an amended Stormwater Management Program or permit.

PART 4: STORMWATER MANAGEMENT PROGRAM (SWMP)

4.1 Comprehensive Plan for Covered Stormwater Discharges

The permittee must implement and enforce a written Stormwater Management Program (SWMP) in accordance with the Clean Water Act and corresponding stormwater NPDES regulations, 40 C.F.R Part 122. The Secretary has determined that the SWMP required by this permit will reduce the discharge of pollutants to the maximum extent practicable for this permit term. All strategies, initiatives, schedules, actions and programs required by this permit are elements of the SWMP.

The permittee shall continue to implement, assess, and upgrade all of the controls, procedures and control measures required by this permit and in the plans that comprise the SWMP. The permittee shall ensure that updates to plans and strategies are consistent with all compliance requirements and deadlines contained in this permit. The Permittee shall post current versions of all plans that comprise the SWMP on its website at an easily identifiable location.

4.2 Reviewing and Updating Stormwater Management Programs

A. SWMP Review: The permittee shall perform an annual review of its SWMP in conjunction with preparation of the annual report required under Subpart 9.3.

B. SWMP Update: When the permittee amends its SWMP during the life of this permit, the requirements of Subpart 2.4 shall apply.

C. Transfer of Ownership, Operational Authority, or Responsibility for SWMP Implementation: When the permittee takes over ownership, operational authority, or SWMP implementation of impervious surfaces not under the ownership or control of the permittee at the time of issuance of 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 the permittee shall notify the Secretary of this addition in its annual report submitted under Subpart 9.3.

PART 5: MINIMUM CONTROL MEASURES

5.1 Requirements to Reduce Pollutants to the Maximum Extent Practicable

The permittee shall develop, implement, and enforce the six minimum control measures, designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the CWA. 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.

The SWMP shall 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 the permittee or another entity will implement for each of the six minimum control measures. EPA has provided a list of sample BMPs on its website: https://www.epa.gov/npdes/national-menu-best-management-practices-bmps-stormwater

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 goal should include outcome measures related to the BMP's impact on water quality, stream channel stability, groundwater recharge, and flood protection. EPA has provided guidance on developing measurable goals at the link above.

4. In addition to the requirements listed above, the permittee shall provide a rationale for how and why it selected each of the BMPs and measurable goals for the SWMP. The rationale shall 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 BMP, and 4) expected water quality outcomes.

5. If applicable, describe the process for consultation with and involvement of public water suppliers with source water protection zones within the MS4.

5.2 Minimum Control Measures

1. Public Education and Outreach on Stormwater Impacts

   The permittee shall implement a public education program, or participate in a regional stormwater public education program, reasonably designed to educate the community about the impacts of stormwater discharges on water bodies. The program shall include the steps that the public can take to reduce pollutants in stormwater runoff, including an explanation of the problem of stormwater runoff and solutions for reducing the amount of runoff reaching waters of the State.

2. Public Involvement/ Participation

   a) The permittee shall develop and implement a public involvement and participation program or participate in a regional stormwater public involvement and participation program.

   b) The permittee shall post the SWMP and annual reports on the permittee's website at the same time they are submitted to the Agency.

3. Illicit Discharge Detection and Elimination

   a) The permittee shall develop, implement, and enforce a program to detect and eliminate illicit discharges into the stormwater systems of the MS4. As a part of the permittee's program to detect and eliminate illicit discharges, the permittee shall:

      (1) Maintain a storm sewer geographic information systems (GIS) map of the MS4, showing the location of all outfalls and the names and location of all waters of the State that receive discharges from those outfalls.

      (2) To the extent allowable under State and local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-stormwater discharges into the MS4 and implement appropriate enforcement procedures and actions.

      (3) Develop and implement a plan to detect and address non-stormwater discharges, with emphasis on outfalls in stormwater impaired watershed(s) and random illegal dumping to the system, such as the dumping of RV wastes, used oil, and paint.

The plan shall:

i. Include dry weather field screening of all MS4 outfalls within the 5-year permit term.
ii. 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),
iii. Include dry weather field tests of selected chemical parameters, as indicators of discharge sources, on all priority outfalls at least once within the 5-year permit term. The MS4 shall list the selected chemical parameters in the SWMP.
iv. Address on-site sewage disposal systems that flow into the storm drainage system,
v. Include procedures, including the specific techniques used, for tracing the source of an illicit discharge,
vi. Include procedures for removing the source of the illicit discharge, including the timeframe for eliminating the discharge,
vii. Include procedures for program evaluation and assessment, and
viii. Require documentation of the results of the program evaluation and assessment.

All records of monitoring information shall include:

i. The date, exact place, and time of sampling or measurements;
ii. The names(s) of the individual(s) who performed the sampling or measurements;
iii. The date(s) analyses were performed;
iv. The names of the individuals who performed the analyses;
v. The analytical techniques or methods used; and
vi. The results of such analyses.

(4) Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste.

(5) Address the following categories of non-stormwater discharges, if the permittee identifies them as significant contributors of pollutants to the MS4: water line flushing; landscape irrigation and lawn watering, provided all pesticides, herbicides, and fertilizers have been applied in accordance with the approved labeling; diverted stream flows; rising groundwater; uncontaminated groundwater; uncontaminated pumped groundwater; discharges from potable water sources; foundation drains 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; uncontaminated condensate from air conditioners, coolers/chillers, and other compressors and from the outside storage

of refrigerated gases or liquids; irrigation water; spring water; uncontaminated water from crawl spaces; flows from riparian habitats and wetlands; discharges from emergency/unplanned fire-fighting activities; fire hydrant flushing; pavement and external building wash waters to which no detergents or other chemicals have been added; incidental windblown mist; and de-chlorinated swimming pool discharges.

(6) Provide the Secretary with an annual status report of monitoring activities conducted and corrective actions taken. The final annual report required by this permit shall summarize the monitoring activities and corrective actions taken during the course of this permit.

(7) Notify the Secretary as soon as practicable after discovery of unpermitted discharges to waters that may pose a threat to human health or the environment. The Secretary, in compliance with 10 V.S.A. § 1295, will post this unpermitted discharge on the Agency's website for public notice.

4. Construction Site Stormwater Runoff Control

The permittee shall develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the MS4 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.

The permittee shall:

a) Develop and implement procedures to assure that construction activities undertaken by the permittee are properly permitted and implemented in accordance with the terms of their stormwater construction permits.

b) In conjunction with the review required by Subpart 5.2.5, review existing policies; planning, zoning, and subdivision regulations; and ordinances 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. The permittee shall also review its policies, regulations, and ordinances for their consistency with the requirements of the State Construction General Permit (CGP). If the permittee's review indicates that its policies are inconsistent with the Secretary's permit, the permittee shall amend its policies to complement, at a minimum, or be more stringent than the requirements of the Secretary.

c) Develop and implement an erosion control ordinance, or zoning or subdivision regulation or other regulatory mechanism which requires construction-related erosion and sediment controls, as well as sanctions to ensure compliance. The policy or regulation shall include controls for 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. At a minimum, the plan shall require implementation of the measures in the Low Risk Site Handbook for Erosion Prevention and Sediment Control (EPSC).

d) Develop and implement procedures for site plan review which incorporate consideration of potential water quality impacts. If the MS4's erosion and sediment control requirements are the same as the state's CGP requirements, the MS4 may rely on the State Stormwater Program review of the CGP application. In these cases, the property owner conducting earth disturbance shall provide the MS4 a copy of the CGP authorization.

e) Develop and implement procedures for receipt and consideration of comments submitted by the public. If the MS4's erosion and sediment control requirements are the same as the state's CGP requirements, the MS4 may rely on the State Stormwater Program public notice of the CGP application. In these cases, the property owner conducting earth disturbance shall provide the MS4 a copy of the CGP authorization.

f) Develop and implement procedures for site inspection and enforcement of control measures. In the SWMP, the MS4 shall include measurable goals for the number and timing of annual site inspections completed. The MS4 shall list, in the annual report, all construction projects that were inspected and any enforcement actions taken.

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

a) The permittee 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, including projects less than one acre that are part of a larger common plan of development, that discharge into the MS4. The program must ensure that controls are in place that would 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 redevelopment of one-half acre or more of impervious surface and expansions of existing impervious greater than 5,000 ft^2 where the total resulting impervious is greater than 1-ac. However, there is a gap between what the Agency's post-construction stormwater management permit

program regulates and what the permittee 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, the permittee 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.

b) In conjunction with the review required by Subpart 5.2.4, the permittee shall review existing policies, planning, zoning and subdivision regulations, and ordinances to:

(1) Determine their effectiveness in managing stormwater runoff from new development and redevelopment projects to prevent adverse impacts to water quality;

(2) Determine their consistency with the requirements of the Secretary's rules and general permits regulating post-construction stormwater runoff;

(3) 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

(4) Assess whether changes can be made to current street design and parking lot guidelines and other local requirements that affect the creation of impervious surfaces to support low impact design options.

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

c) The permittee 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.

d) For stormwater runoff that discharges from new development and redevelopment projects that disturb 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 permittee shall adopt an ordinance, planning, zoning and subdivision regulation, or other regulatory mechanism that:

(1) Prevents or minimizes water quality impacts from post-construction stormwater runoff from such developments,

(2) Utilizes 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

(3) Ensures adequate long-term operation and maintenance of BMPs.

e) 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, the permittee shall:

(1) Develop and implement procedures for inspecting development and redevelopment projects for compliance with the conditions of the permittee's regulations.

(2) Develop and implement procedures to assure that development and redevelopment activities undertaken by the permittee, including road projects, are properly permitted, constructed, and maintained.

f) The permittee shall provide the foregoing plans, policies, and procedures as a part of its SWMP.

6. Pollution Prevention and Good Housekeeping for Municipal Operations

a) The permittee 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 to the MS4 from all operations of the permittee.

b) The program shall include the following:

(1) A list of the permittee's operations covered by the program, including activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance,

(2) A training component to prevent and reduce stormwater pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and stormwater system maintenance,

(3) Controls for reducing or eliminating the discharge of pollutants from the MS4, and

(4) Procedures for compliance with applicable state and federal laws for the proper disposal of waste, including dredged spoil, accumulated sediments, floatables, and other debris.

c) Where lawn or garden fertilizers are used in the facility operation, the permittee 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. This requirement does not apply to community gardens intended for the growing of produce.

d) The permittee shall provide a list of industrial facilities that it owns or operates that discharge to its MS4 and are subject to an individual NPDES permit or the Agency's General Permit 3-9003, Multi-Sector General Permit for Stormwater Discharges Associated With Industrial Activity, including facilities covered by a "no exposure certification." Include the permit number for each facility.

e) The permittee shall provide a copy of its operation and maintenance program to prevent or reduce pollutant runoff from the permittee's operations as a part of its SWMP.

PART 6: ASSUMPTION OF RESPONSIBILITY FOR PREVIOUSLY PERMITTED STORMWATER SYSTEMS

6.1 Full Legal Responsibility

A permittee may assume "full legal responsibility" for a stormwater system that was previously permitted under an operational stormwater permit. To assume "full legal responsibility" a permittee must have 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.

If a permittee has "full legal responsibility" for a stormwater system, it may apply to amend its permit to incorporate the previously permitted systems in accordance with Subpart 2.4. The permittee shall list the incorporated systems and previous permit numbers in the SWMP, shall certify that it has "full legal responsibility" for such systems, and shall report on maintenance of the systems in the annual report.

All such systems for which a permittee has "full legal responsibility", and which have been incorporated under the permittee's MS4 permit shall be inspected, operated, and maintained so as to comply with the requirements of the operational stormwater permit issued most recently for the impervious surface.

6.2 Partial Legal Responsibility by Individual Operational Permit

The permittee may assume "partial legal responsibility" for a stormwater system if the system is covered by an individual permit where the permittee is a co-permittee. The individual permit shall provide coverage for all impervious surface subject to an operational permit; describe the assignment of phosphorus credit to a PCP as described in Subpart 7.3; and describe legal responsibility for maintenance and inspection for each co-permittee.

PART 7: TMDL IMPLEMENTATION

7.1 Moon Brook Stormwater Flow Restoration Plan (FRP)

The permittee shall develop and submit a comprehensive Flow Restoration Plan (FRP) for the Moon Brook stormwater-impaired watershed within the permittee's boundaries. Designated MS4 municipalities that discharge into the same stormwater-impaired watershed may elect to cooperate to develop a single FRP for the watershed. The FRP shall be submitted to the Secretary within two years from the date of issuance of this permit. The FRP shall contain the following elements:

A. Identification of Required Controls. An identification of the suite of necessary stormwater BMPs that will be used to achieve the flow restoration targets. If a stormwater-impaired watershed includes lands outside the boundaries of the Rutland MS4, the FRP shall address the permittee's commensurate share of necessary BMP implementation based on percent impervious land cover.

B. Design and Construction Schedule. A design and construction schedule for the stormwater BMPs that have been identified by the permittee as necessary to achieve the flow restoration targets. The schedule shall provide for implementation of the required BMPs as soon as possible, but no later than December 5, 2032.

C. Financial Plan. A financing plan that estimates the costs for implementing the FRP and describes a strategy for financing the FRP. The financing plan shall include the steps the permittee will take to implement the financing plan.

D. A FRP that has been approved by the Secretary shall be a part of a permittee's SWMP.

E. Schedule of Compliance. As outlined in the FRP, the permittee shall implement all measures necessary to achieve the flow restoration target in the stormwater TMDL no later than December 5, 2032. The permittee shall submit a report annually on April 1st.

on the development and implementation of the FRP. 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 twelve-month period was constructed in compliance with the approved plans.

The permittee shall, according to the following schedule:

April 1, 2025 December 1, 2025	Submit a status report on the development of the Flow Restoration Plan
2 years from permit issuance	Submit a complete FRP to the Secretary for approval.
April 1st and every year thereafter	Submit Annual FRP report
No later than December 5, 2032	Complete implementation of the approved FRP

7.2 Moon Brook Thermal Restoration Plan

The permittee shall develop and submit a comprehensive Thermal Restoration Plan (TRP) for the Moon Brook thermally-impaired watershed. The TRP shall be submitted to the Secretary within two years from the date of issuance of this permit. The TRP shall contain the following elements:

A. Identification of Required Controls. An identification of the controls and BMPs that will be used to achieve the thermal restoration target.

B. Design and Construction Schedule. A design and construction schedule for the controls and BMPs that have been identified by the permittee as necessary to achieve the thermal restoration target. The schedule shall provide for implementation of the required controls and BMPs as soon as possible, but no later than May 11, 2038.

C. Financial Plan. A financing plan that estimates the costs for implementing the TRP and describes a strategy for financing the TRP. The financing plan shall include the steps the permittee will take to implement the financing plan.

D. A TRP that has been approved by the Secretary shall be a part of a permittee's SWMP.

E. Schedule of Compliance. As outlined in the TRP, the permittee shall implement all measures necessary to achieve the thermal restoration target in the TMDL no later than May 11, 2038. The permittee shall submit a report on an annual basis on the development and implementation of the TRP. The report shall be submitted annually on April 1st. The report shall address actions taken to implement all TRP 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 TRP report shall include a written statement, signed by a designer acceptable to the Secretary, that any BMP built or implemented within the preceding twelve-month period was constructed in compliance with the approved plans.

The permittee shall, according to the following schedule:

April 1, 2025 December 1, 2025	Submit a status report on the development of the Thermal Restoration Plan
2 years from permit issuance	Submit a complete TRP to the Secretary for approval.
April 1st and every year thereafter	Submit Annual TRP report
No later than May 11, 2038	Complete implementation of the approved TRP

7.3 Lake Champlain Phosphorus Control Plan (PCP) Requirements

A. The permittee shall develop and implement a Phosphorus Control Plan (PCP), for approval by the Secretary, for developed land consistent with the Lake Champlain TMDLs.

1. At a minimum, the PCP shall be designed to achieve a level of phosphorus reduction equivalent to the percent reduction target for developed land in the associated TMDL lake segment(s) as applied to municipally-owned developed lands. The percent reduction targets are included in Appendix A of this permit (See Table 8 of the Phosphorus TMDLs for Vermont Segments of Lake Champlain, June 17, 2016).

2. The PCP may include the treatment of non-municipally-owned developed lands.

3. The PCP may include, but is not limited to, reductions calculated from:

   a) Implementation of the Municipal Road Standards (in Subpart 8.3),
   b) Street sweeping and catch basin cleaning practices,
   c) Retrofits to municipally owned properties,
   d) Implementation of stormwater treatment practice upgrades or retrofits to treat existing impervious after the adoption of the 2002 Vermont State Stormwater Manual,
   e) Implementation of stormwater treatment practices after July 1, 2010, on developed lands that are not subject to the state's operational stormwater permit.
   f) Implementation of municipal ordinances or regulations to address sub-jurisdictional impervious surfaces.

4. The following conditions apply when calculating phosphorus reductions for application towards the PCP targets:

   a) Where a PCP includes phosphorus reductions from non-municipally-owned developed lands that are otherwise subject to an operational stormwater permit that requires an upgrade of the stormwater treatment system pursuant to the Department's regulations for 3-acre sites, the PCP shall be designed to achieve, in aggregate, a level of phosphorus reduction equivalent to the lake segment target as applied to municipally-owned developed land, and a 35% reduction from the non-municipally-owned developed lands. The MS4 shall assume full legal responsibility for the stormwater systems as per Part 6.1.

   b) Where a PCP includes phosphorus reductions from non-municipally-owned developed lands that are subject to an operational stormwater permit that does not otherwise require an upgrade of the stormwater system pursuant to the Department's regulations, the management of stormwater from these lands is creditable towards the phosphorus reduction target. The MS4 shall assume full legal responsibility for the stormwater systems as per Part 6.1.

   c) Where a PCP includes phosphorous reductions from non-municipally-owned developed lands that are not otherwise subject to an operational stormwater permit, the management of stormwater from these lands is creditable towards the phosphorus reduction target. The Permittee shall establish a maintenance agreement with the property owner(s) to ensure long-term maintenance of the BMP(s). The maintenance agreement can be conditions in a local permit, or part of a municipally-approved plan.

   d) Where a structural treatment practice or retrofit that receives runoff from municipally-owned developed lands and non-municipally-owned developed lands that are otherwise subject to an operational stormwater permit that requires an upgrade of the stormwater treatment system pursuant to the Department's regulations, including 3-acre sites, the Permittee may receive partial phosphorous credit towards their PCP if the stormwater treatment practice is covered under an

individual operational permit where the Permittee is a co-permittee. Phosphorus credit may be assigned to the PCP through the individual operational permit for treatment of municipally owned land and to non-municipally owned land to the extent that Subparts 7.3.A.4.a-c are met.

Phosphorus credit to a PCP shall not include reductions from non-municipally owned lands that are otherwise subject to an operational permit if the Permittee has not taken "full legal responsibility" for that portion of the system.

e) The PCP may include a component to address a reduction of future growth discharges of phosphorus from developed lands. The future growth component shall track the amount of development, and the level of stormwater management achieved by local ordinances or regulations, on future development. Future development is any development after July 1, 2010 that is not subject to a state operational permit.

B. The Secretary will evaluate the phosphorus reductions achieved through all of the developed lands regulatory tools to assess compliance, per lake segment, with the Lake Champlain TMDL reduction targets. This evaluation may result in the regulation of additional impervious surface to meet the phosphorus reduction requirements.

C. The submission of the Road Erosion Inventory (REI) Reassessment through the Implementation Table Portal shall be placed on public notice pursuant to Subpart 2.4. Upon approval by the Secretary, the REI shall become a part of the permittee's SWMP.

D. A PCP that has been approved by the Secretary shall be a part of a permittee's SWMP.

E. Schedule of Compliance. The permittee shall complete implementation of the PCP no later than June 17, 2036.

The permittee shall, according to the following schedule:

April 1, 2025 and every year thereafter	- Submit Annual PCP Report
April 1, 2028	- Submit REI Reassessment
No later than June 17, 2036	- Complete full implementation of the approved PCP

F. Pursuant to the foregoing table, the permittee shall submit a report annually by April 1st on the implementation of the PCP. The reports shall address actions taken to implement all PCP components, including:

1. Extent of implementation of the Municipal Roads Standards and any necessary updates to the Implementation Table,

2. Extent of street sweeping and catch basin cleaning,

3. Extent of stormwater BMP implementation,

4. An estimate of the extent of remaining items requiring completion,

5. An assessment of the ability to meet outstanding schedule items, and

6. A written statement, signed by a designer acceptable to the Secretary, that any structural BMP built or implemented within the preceding twelve-month period was constructed in compliance with the approved plans.

7.4 Municipal Road Requirements

The permittee shall complete and submit for Agency approval a Road Erosion Inventory (REI) Reassessment. The updated REI reassessment shall be submitted to the Implementation Table Portal (ITP) by the deadline defined in Part 7.3.E. The ITP shall be updated annually as part of the Annual Report.

A. Road Erosion Inventory for all municipal hydrologically-connected road segments

The permittee shall complete an REI reassessment of all hydrologically-connected road segments within the municipality. The REI is intended to verify which municipal road segments are hydrologically connected and identify which of those segments meet the operational standards required under this permit. The municipal road segments are broken down into the following three categories: Open Drainage Roads, Closed Drainage Roads, and Class 4 Roads. A detailed procedure for conducting the REI reassessments can be found on the MRGP website*.

The permittee is required to use the DEC-developed REI Survey 123 form application (app) to conduct the REI re-assessment and segment upgrades. The DEC-developed REI Survey 123 form app, Collector Map app, and web-based Reporter for the MRGP tool can be found on the MRGP website.[1]

Results of the REI will be recorded in the Implementation Table Portal (ITP). Road erosion scores will visible immediately when the REI is submitted through the Survey 123 app. A link to the ITP can be found on the MRGP website.[2]

Other similar map layer apps are allowed if approved by DEC.

[1] Links to the Road Erosion Inventory (REI) Survey 123 app, Implementation Table Portal (ITP), and associated materials can be found on the MRGP website at: https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/municipal-roads-program.
[2] Id.

B. Hydrologically Connected Road Segment Determination

The REI reassessment shall include all hydrologically-connected municipal road segments. This includes all hydrologically-connected road segments that appear on the ANR Atlas at the time that the REI is conducted, as well as all road segments likely to discharge to waters or wetlands. All hydrologically-connected road segments depicted on the ANR Atlas shall be field visited and evaluated using the REI Form. Additionally, the permittee may propose to add road segments to its REI based on an evaluation of the following criteria:

For closed drainage roads: the catch basin outlet pipe is within 500 feet of a water of the State or wetland.

For all other municipal roads:

i. The municipal road segment is within 100 feet of a water of the State or wetland;

ii. The municipal road segment bisects any water of the State or wetland, or a defined channel;

iii. The municipal road segment is uphill from, and drains to, a municipal road that bisects a water of the State or wetland, and should be included in the REI to accurately capture the extent of the stormwater watershed.

If a road segment appears on the ANR Atlas and none of the above conditions are observed in the field, the permittee may propose to re-classify a segment as not hydrologically connected. Alternately, if none of the above conditions are observed in the field, but the segment is likely to discharge to waters or wetlands, the permittee shall propose to add this segment to the inventory following a field evaluation.

The addition or removal of any road segments not appearing on the ANR Atlas must be documented as part of the REI, and justification for the removal or addition shall be included in the Implementation Table.

The Secretary may determine at any time that a road segment not identified on the ANR Atlas is hydrologically connected, based on the criteria listed above, as well as other site-specific factors that indicate the likelihood of a discharge, including slope, soil type, proximity to waters, etc. When the Secretary determines that an unmapped road segment is hydrologically connected and informs the municipality of its determination, the permittee shall include the segment in its Implementation Table as part of the next annual report.

C. Road Erosion Scoring

The REI scoring methodology can be found on the MRGP website at: https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/municipal-roads-program.

Road segments will be scored automatically upon submittal of REI data through the DEC Survey 123 app. Road erosion scores will be visible immediately in the Implementation Table Portal (ITP) when the REI is submitted through the Survey 123 app.

All road segments will be scored as "Fully Meets," "Partially Meets," or "Does Not Meet" the standards listed in Part 7 of this permit. Road segments that score "Partially Meets" or "Does Not Meet" shall be upgraded to meet standards according to the municipality's implementation schedule. Road segments that score "Fully Meets" do not require upgrades but shall be maintained to ensure that they continue to meet standards.

D. Implementation Table Portal (ITP)

The permittee shall record the REI scoring information in the ITP. The ITP is available on the MRGP website at: https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/municipal-roads-program

E. Road Stormwater Management Standards

The standards listed below constitute the minimum required Best Management Practices (BMPs) applicable to all "hydrologically-connected" municipal roads.

It is the permittee's responsibility to maintain all practices after installation. Road segments not meeting these standards must implement the BMPs listed below in order to meet the required standards.

Refer to the VTrans Better Roads Manual for BMP sketches and descriptions at:

https://vtrans.vermont.gov/sites/aot/files/highway/documents/ltf/Better%20Roads%20Manual%20Final%202019.pdf

1. Feasibility

The permittee shall implement these standards to the extent feasible. In determining feasibility, the permittee may consider the following criteria: The implementation of a standard listed in Part 7.4.E of this permit does not require the acquisition of additional state or federal permits or noncompliance with such permits, or noncompliance with any other state or federal law. The implementation of a standard does not require the condemnation of private property; impacts to significant environmental and historic resources, including historic stone walls, historic structures including structures

registered on either the Vermont State Register of Historic Places or the National Register of Historic Places, or vegetation within 250 feet of a lakeshore; impacts to buried utilities; and excessive hydraulic hammering of ledge. Additionally, the implementation of any standard shall not be required if it would render the road unsafe for travel.

The permittee shall document in the REI Reassessment each instance where feasibility affects implementation of the standards.

2. Standards for All Construction and Soil Disturbing Activities

Following construction and soil disturbance on a hydrologically-connected road segment, all bare or unvegetated areas shall be revegetated with seed and mulch, hydroseeded, or stone lined within 5 days of disturbance of soils, or, if precipitation is forecast, sooner. Projects authorized under the Construction General Permit (CGP 3-9020) or Individual Construction Stormwater Permit (INDC) shall instead comply with the terms and conditions of that permit.

3. Standards for Open Drainage Roads (Not Class 4)

The following are the required standards for all non-compliant hydrologically-connected open drainage roads. The permittee shall apply these standards to all new construction, general BMP maintenance, and significant upgrades of stormwater treatment practices.

A. Roadway/Travel Lane Standards

1. Roadway Crown
   a. Gravel roads shall be crowned, in or out-sloped:
      Minimum: ¼" per foot
      Recommended: ¼" – ½" per foot or 2% - 4%.

   b. Paved/ditched roads shall be crowned during new construction, redevelopment, or repaving where repaving involves removal of the existing paving.
      Minimum: 1/8" per foot or 1%
      Recommended: 1% - 2%.

2. Shoulder Berms (also called Grader/Plow Berm/Windrows)
   Shoulder berms shall be removed to allow precipitation to shed from the travel lane into the road drainage system. Roadway runoff shall flow in a distributed manner to the drainage ditch or filter area and there shall be no shoulder berms or evidence of a "secondary ditch". Shoulder berms may remain in place if the road crown is in-sloped or out-sloped to the opposite side of the road from berm side of road. The shoulder berm standard only applies to open drainage gravel roads.

B. Road Drainage Standards

Roadway runoff shall flow in a distributed manner to grass or a forested area by lowering road shoulders or conversely by elevating the travel lane level above the shoulder. Road shoulders shall be lower than travel lane elevation. If distributed flow is not possible, roadway runoff may enter a drainage ditch, stabilized as follows:

1. For roads with slopes between 0% and 5%:
   a. At a minimum, grass-lined ditch, no bare soil. Geotextile and erosion matting may be used instead of seed and mulch. Alternatively, ditches may be stabilized using any of the practices identified for roads with slopes 5% or greater included in Sub-part B.2, below.
   b. Recommended shape: trapezoidal or parabolic cross section with mild side slopes; two foot horizontal per one foot vertical or flatter and 2 foot ditch depth.

2. For roads with slopes 5% or greater but less than 8%:
   a. Stone-lined ditch: minimum 6"- 8" minus stone or the equivalent for new practice construction. Recommended 2-foot ditch depth from top of stone-lined bottom,
   b. Grass-lined ditch with stone check dams[4], or
   c. Grass-lined ditch if installed with disconnection practices such as cross culverts and/or turnouts to reduce road stormwater runoff volume. There shall be at least two cross culverts or turnouts per segment disconnecting road stormwater out of the road drainage network into vegetated areas or spaced every 160'.

3. For roads with slopes of 8% or greater:
   a. Stone-lined ditch. Stone-lined ditches are not required if the toe of the ditch backslope is located outside of the town right-of-way.
   b. For slopes greater than or equal to 8% but less than 10%:
      i. Minimum 6"-8" minus fractured stone or the equivalent for new construction.
      ii. Recommended 2-foot ditch depth from top of stone-lined bottom.
   c. For slopes greater than 10%:
      i. Minimum 6-8" minus fractured stone. Recommended 12" minus fractured stone or the equivalent.
      ii. Recommended 2-foot ditch depth from top of stone-lined bottom.

4. If appropriate, bioretention areas, level spreaders, armored shoulders, and sub-surface drainage practices may be substituted for the above road drainage standards.

C. Drainage Outlets to Waters & Turnouts

Roadway drainage shall be disconnected from waterbodies and defined channels, since the latter can act as a stormwater conveyance, and roadway drainage shall flow in a distributed manner to a grass or forested filter area. Drainage outlets and conveyance areas shall be stabilized as follows:

1. Turn-outs - all drainage ditches shall be turned out to avoid direct outlet to surface waters.
2. There must be adequate outlet protection at the end of the turnout, based upon slope ranges below. Turnout slopes shall be measured on the bank where the practice is located and not based on the road slope.
   a. For turnouts with slopes of 0% or greater but less than 5%: stabilize with grass at minimum. Alternatively, stabilize using the practices identified in Sub-parts (b)-(c), below, when possible.
   b. For turnouts with slopes 5% or greater: stabilize with stone.
   c. For slopes greater than 5% but less than 10%: minimum 6”-8” minus fractured stone or the equivalent for new construction.
   d. For slopes greater than 10%: minimum: 6-8” minus fractured stone or equivalent for new construction. Recommended 12” minus fractured stone or the equivalent.

D. Municipal Cross Culverts and Intermittent Stream Culverts

1. All municipal culverts- Culvert end treatment or headwall required for areas with slopes 5% or greater, if erosion is due to absence of these structures. End treatment or headwall is required for new construction on road segment slopes 5% or greater.
2. All municipal culverts - Stabilize outlet such that there will be no scour erosion, if erosion is due to absence or inadequacy of outlet stabilization. Stone aprons or plunge pools required for new construction on road segment slopes 5% or greater.
3. Cross culverts- Upgrade to 18” culvert (minimum), if erosion is due to inadequate size or absence of structure.
4. In instances where intermittent streams enter the municipal road drainage network, the Secretary requires culvert sizing based on in-field and mapping techniques described in the Intermittent Stream Crossing Sizing Guidance, found on the Stormwater Program’s website, at:http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/municipal-roads-program.
5. Drainage culverts conveying perennial waters are subject to coverage under the DEC Stream Alteration General Permit. Municipal Road Standards do not apply to culverts conveying perennial waters.
6. A French Drain (also called an Under Drain) or French Mattress (also called a Rock Sandwich) sub-surface drainage practice may be substituted for a cross culvert.

E. Driveway Culverts within the municipal ROW

1. Culvert end treatment or headwall required for areas with road segment slopes of 5% or greater, if erosion is due to absence of these structures. End treatment or headwall is required for new construction.
2. Stabilize outlet such that there will be no scour erosion, if erosion is due to absence or inadequacy of outlet stabilization. Stone aprons or plunge pools required for new construction.
3. Upgrade to minimum 15" culvert, 18" recommended, if erosion is due to inadequate size or absence of structure.
4. Intermittent streams may enter the municipal road drainage network, and in these cases, the Secretary requires culvert sizing based on in-field and mapping techniques described on the Stormwater Program's website: http://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/municipal-roads-program.
5. Driveway culverts conveying perennial waters are subject to coverage under the DEC Stream Alteration General Permit.

4. Standards for Closed Drainage Roads

   Catch Basin Outlet Stabilization: All hydrologically-connected catch basin outlets shall be stabilized to eliminate all rill and gully erosion. Catch basin outlet stabilization practices include: stone-lined ditch, stone apron, check dams, culvert header/headwall, and green stormwater infrastructure practices such bioretention practices, when appropriate.

5. Standards for Connected Class 4 Roads

   Stabilize any areas of gully erosion identified in the REI with the practices described above or equivalent practices. Disconnection practices such as broad-based dips and water bars may replace cross culverts and turnouts.

PART 8: MONITORING, RECORD KEEPING, AND REPORTING

8.1 Monitoring

The Agency may require the permittee 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 or if it is necessary to verify the effectiveness of BMPs and other control measures in the permittee's SWMP.

8.2 Recordkeeping

A. The permittee shall retain all records required by this permit, including records of all monitoring information, 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 of the sample, measurement, report, or application. This period may be extended by request of the Secretary at any time.

B. The permittee shall submit its records to the Secretary when specifically asked to do so. It must retain a copy of the SWMP required by this permit, and a copy of the permit language, at a location accessible to the Secretary. The permittee shall make its records, including the NOI and SWMP, available to the public, if requested to do so in writing.

8.3 Annual Report

The permittee shall submit an annual report that shall evaluate the permittee's compliance with the minimum control measures. The permittee shall submit its annual reports to the Department of Environmental Conservation, Watershed Management Division, Stormwater Management Program by April 1st each year, and upon receipt, the Department shall post each annual report on its website. FRP, Thermal TMDL, and PCP reports shall be included with the annual report. In addition to any TMDL reporting requirements, the annual report shall include all annual reporting requirements under Parts 3, 4, and 5 of this permit as well as:

A. The status of the permittee's 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 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. If the permittee determines that an individual BMP is not meeting the measurable goals established for that BMP, the permittee shall amend its SWMP to address the ineffective BMP,

B. Results of information collected and analyzed, if any, during the reporting period,

C. A summary of the stormwater activities to be undertaken during the next reporting cycle,

D. A change in any identified BMPs or measurable goals for any of the minimum measures,

E. A summary of inspections performed on previous permitted operational stormwater systems that the permittee has assumed full legal responsibility for, and

F. Notice that the permittee is relying on another entity to satisfy some of its permit obligations, if applicable.

PART 9: STANDARD PERMIT CONDITIONS

9.1 Duty to Comply

A permittee shall comply with all conditions of this permit and all discharges authorized by this permit shall be consistent with the terms and conditions of this permit. Any permit noncompliance, including the submission of false, incomplete, or inaccurate information, constitutes a violation of 10 V.S.A. Chapter 47 and the rules adopted thereunder and is grounds for enforcement action; for permit termination, suspension, revocation and reissuance, or amendment; or for denial of a permit renewal application.

9.2 Penalties for Violations of Permit Conditions

Violations of the terms and conditions of this permit are subject to civil and criminal penalties pursuant to 10 V.S.A. §§ 1274 and 1275 and administrative enforcement pursuant to 10 V.S.A. § 1272 and Chapters 201 and 211, and EPA retains authority to enforce violations of the CWA pursuant to section 309 of the CWA. Penalties include:

A. 10 V.S.A. § 1275(a) provides that:

> Any person who violates any provision of this subchapter or who fails, neglects or refuses to obey or comply with any order or the terms of any permit issued in accordance with this subchapter, shall be fined not more than $25,000.00 or be imprisoned not more than six months, or both. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.

B. 10 V.S.A. § 8010(c) provides that:

> (1) A penalty of not more than $42,500.00 may be assessed for each determination of violation. In addition, if the Secretary determines that a violation is continuing, the Secretary may assess a penalty of not more than $17,000.00 for each day the violation continues. The maximum amount of penalty assessed under this subsection shall not exceed $170,000.00.
>
> (2) In addition to any penalty assessed under subdivision (1) above, the Secretary may also recapture economic benefit resulting from a violation up to the $170,000.00 maximum allowed under subdivision (1).

C. 10 V.S.A. § 1275(b) provides that:

> Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this subchapter, or by any permit, rule, regulation or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this subchapter or by any permit, rule, regulation, or order issued under this subchapter, shall upon conviction, be punished by a fine of not more than $10,000.00 or by imprisonment for not more than six months, or by both.

9.3 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 prior to the expiration date of the authorization to discharge.

If the permittee has submitted an administratively complete application for coverage prior to the expiration date of its existing authorization, the existing authorization shall not expire until the application has been finally determined by the Secretary, and, in case the application is denied or

the terms of the new permit limited, until the last day for seeking review of the Secretary's decision or a later date fixed by order of the reviewing court.

9.4 Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a 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.

9.5 Duty to Mitigate

A permittee must take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

9.6 Duty to Provide Information

A permittee must provide any new information that is requested to determine compliance with this permit or other information.

9.7 Other Information

If a permittee becomes aware that it has failed to submit any relevant facts in its NOI or submitted incorrect information in the NOI or in any other report to the Secretary, it must promptly submit such facts or information.

9.8 Signatory Requirements

All NOIs, reports, certifications, or required forms or information submitted to the Agency, or that this permit requires be maintained shall be signed by a principal executive officer, ranking elected official, or other duly authorized representative consistent with 40 C.F.R. §122.22 and certified as follows:

"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 gathered and evaluated 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."

9.9 Property Rights

This permit conveys no vested rights or exclusive privileges. This permit conveys no title to land, no property rights of any sort, nor authorizes any injury to public or private property nor any invasion of personal rights. This permit does not authorize any infringement of federal,

state, or local laws or regulations nor does it obviate the necessity of obtaining such additional permits as may be required.

9.10 Proper Operation and Maintenance

A permittee shall at all times properly operate as efficiently as possible and maintain in good condition all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of this permit and with the conditions of the SWMP. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems only when the operation is necessary to achieve compliance with the conditions of the permit.

The condition of the permitted facilities and systems shall at no time contribute to a violation of the terms, conditions, requirements, limitations, and restrictions specified by this permit.

9.11 Inspection and Entry

A permittee shall allow the Secretary or his or her authorized representative (including an authorized contractor acting as a representative of the Secretary) or the Regional Administrator or his or her authorized representative at reasonable times, upon presentation of credentials, to:

A. Enter the premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;

B. Have access to and copy, any records that must be kept under the conditions of this permit;

C. Inspect any facilities or equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

D. Sample or monitor, for the purposes of assuring permit compliance or as otherwise authorized by the CWA, any substances or parameters at any location.

9.12 Permit Actions

Authorization under this permit may be modified, revoked and reissued, or terminated for cause, including: violation of any terms or conditions of the permit, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts, and a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

9.13 Anticipated Noncompliance

A permittee shall give advance notice to the Agency of any planned changes that may result in noncompliance with this permit.

9.14 State Environmental Laws

A. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve a permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the CWA.

B. No condition of this permit releases a permittee from any responsibility or requirements under other environmental statutes or regulations.

9.15 Severability

The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.

9.16 Limitation

Nothing in this permit shall be construed as having relieved, modified, or in any manner affected a permittee's on-going obligation to comply with all other federal, state, and local statutes, regulations, and directives applicable to the permittee in the operation of the permittee's activities, nor does it relieve the permittee of the obligation to obtain all other necessary state, local, and federal permits.

PART 10: RIGHTS TO APPEAL TO THE ENVIRONMENTAL COURT

Pursuant to 10 V.S.A. Chapter 220, an aggrieved person shall not appeal this permit or an authorization under 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. Absent a determination of the Environmental judge to the 35 contrary, an aggrieved person may only appeal issues related to the person's comments to the Secretary as prescribed by 10 V.S.A. § 8504(d)(2).

Pursuant to 10 V.S.A. Chapter 220 and the Vermont Rules for Environmental Court Proceedings, any appeal of this permit or an authorization made pursuant to this permit, except for an appeal of an authorization for a renewable energy plant, must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. 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.

PART 11: 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.

"Agency" means the Vermont Agency of Natural Resources.

"Armored shoulder" means a structure that reinforces existing road shoulder integrity and embankment area stability by reducing Stormwater-related overbank erosion. To construct an armored shoulder, road surface material and base material are excavated and removed and replaced with 12" minus stone 1-3' in depth and top-dressed with processed road surface material.

"Bioretention area" means a vegetated surface depression, often referred to as a "rain garden," with amended soils used to capture, slow, infiltrate, and treat runoff from impervious surfaces, including rooftops, roads, parking lots and driveways. The goal of this practice is to infiltrate stormwater runoff. Properly designed and installed bioretention area provide volume control, and groundwater recharge. This practice should only be installed on slopes less than 5%.

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

"Broad-based dip" means a drainage structure, similar to but wider than a waterbar, used on Class 4 roads where grades are less than or equal to 8 percent. These structures divert the surface water runoff into a filter area.

"Catch basin outlet" means the area that receives a stormwater discharge from a closed drainage system.

"Control measure" means any BMP or other method used to prevent or reduce the discharge of pollutants to waters.

"Conveyance area" means those areas located between the end of the road drainage and water resources.

"Culvert headwall" means stone structures that protect culverts from damage during grading, plowing and ditch cleaning, increase hydraulic efficiency, and prevent erosion around the culvert inlet and outlet. These structures may also be referred to as "headers" or "end treatments." These structures may be installed using flat stone, rock riprap, or ditch stone around the culvert ends.

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

“Defined channel” means a drainage conveyance exhibiting channel dimensions such as width and depth. At culvert crossings, these characteristics are located both upstream and downstream of crossings.

“Designer” means any person whose qualifications are acceptable to the Secretary.

“Developed land” means impervious surface and associated open lands including lawns, golf courses, and other managed vegetated areas. Developed land does not include farms or forested areas and associated logging trails and logging roads.

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

“Driveway culvert” means a culvert under a driveway within municipal right-of-way.

“EPA” means the United States Environmental Protection Agency.

“Flow restoration targets” means 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.

“French drain/under drain” means a drainage practice installed under a road or road ditch to collect and transport subsurface waters. These buried perforated conduits are wrapped in geotextile fabric, which allows water to enter the conduit while keeping sediment out.

“French mattress/rock sandwich” means a structure under a road consisting of clean coarse rock wrapped in geotextile fabric through which water can pass freely. These structures are used in extremely wet areas, to support the road bed while allowing unrestricted water movement.

“Gully erosion” means a severe level of erosion. Gully erosion is equal to or greater than 12” in depth.

“Historic resource” means any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology, or culture of this State, its communities, or the nation.

“Hydrologically-connected road segments” means a road segment, equal to 100 meters in length, where the Secretary has determined that road and drainage characteristics indicate a likelihood of discharges to surface waters or wetlands. This definition includes those road segments identified as hydrologically connected on the ANR Atlas. The Secretary has developed a hydrologically-connected road segment layer using GIS analysis of roadway distance to waters.

“Illicit connection” means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer system.

“Illicit discharge” means any discharge to a municipal separate storm sewer system that is not authorized by this permit or another discharge permit.

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

“Level spreader” means a rectangular or oval-shaped infiltration structure used to intercept and discharge water flow over a wide linear area. The construction of a level spreader involves the excavation and removal of soil and backfilling excavated area to the original grade with 3”-6” stone.

“MEP” or “maximum extent practicable” is the requirement set forth in 402(p)(3)(B)(iii) of the federal Clean Water Act (33 U.S.C. § 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. A discussion of MEP as it applies to small MS4s is found at 64 FR 68842, Dec. 8, 1999.

“MS4” or “municipal separate storm sewer system” 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 a designated and approved management agency under Section 208 of the CWA that discharges to waters of the State; (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 C.F.R. § 122.2.

“Municipal drainage/cross culvert” means culverts that convey road stormwater from one side of the road to another with no defined channel acting as a conveyance at the outlet. Outlets fan or sheet flow into grassed or forested areas and are not direct conveyances to waters.

“Municipal roads” means all town highways, classes 1-4, as defined under 19 V.S.A. Chapter 3, and their rights-of-way, as well as municipal stormwater infrastructure associated with town highways.

"Municipal stormwater infrastructure" means, for purposes of the definition of "municipal roads," all stormwater conveyances and treatment and control systems, controlled by the municipality, that receive stormwater discharges from municipal roads.

"NOI" or "Notice of Intent" means the form required for authorization under this permit.

"Outfall" means a point source as defined by 40 CFR 122.2 at the point where a municipal separate storm sewer discharges to waters of the state.

"Plunge/splash pool" means a stone basin located at the outlet of drainage and intermittent stream culverts and used to consolidate and remove sediment from areas with concentrated flows and areas without adequate vegetated infiltration areas. Limited to areas with less than 10% slope.

"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 in a State's 303(d) list.

"Rill erosion" means a moderate level of erosion. Rill erosion is erosion rivulets greater than 1" but less than 12" in depth.

"Secondary ditch" means road travel lane or shoulder erosion due to the presence of a shoulder berm, prohibiting perpendicular flow of road stormwater off the road surface into the road drainage area.

"Secretary" means the Secretary of the Vermont Agency of Natural Resources.

"Sedimentation" means the deposition or accumulation of sediment. Sedimentation is often a symptom of erosion, and while rill and gully erosion are often concave in cross section, sedimentation is convex.

"Stone/rock apron" means a fan-shaped culvert outlet stabilization structure, designed to reduce water velocity, constructed of 12" minus stone. This structure should not be installed at perennial stream culvert outlets.

"Stormwater" or "stormwater runoff" means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

"SWMP" or "Stormwater Management Program" means the comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system.

"TMDL" or "total maximum daily load" means the calculations and plan for meeting water quality standards approved by the EPA and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.

"Turn-out" means the extension of a drainage ditch that redirects or 'turns away' water into a vegetated buffer and disperses runoff before entering a water resource.

"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.

"Waterbar" means a type of berm or open culvert drainage structure constructed across the width of a Class 4 road that diverts the surface water runoff from ditches and road into a filter area.

"Wetlands" means those areas of the State that are inundated by surface or groundwater with a frequency sufficient to support significant vegetation or aquatic life that depend on saturated or seasonally saturated soil conditions for growth and reproduction. Such areas include marshes, swamps, sloughs, potholes, fens, river and lake overflows, mud flats, bogs, and ponds, but excluding such areas as grow food or crops in connection with farming activities.

PART 12: EFFECTIVE DATE

This permit shall become effective upon signing and shall remain in effect for five years from the date of signing.

Signed August 15, 2024.

Julia S. Moore, Secretary
Agency of Natural Resources

By 
_____
Kevin Burke, Program Manager
Stormwater Management Program

APPENDIX A – Lake Champlain TMDL Required Reductions per Lake Segment

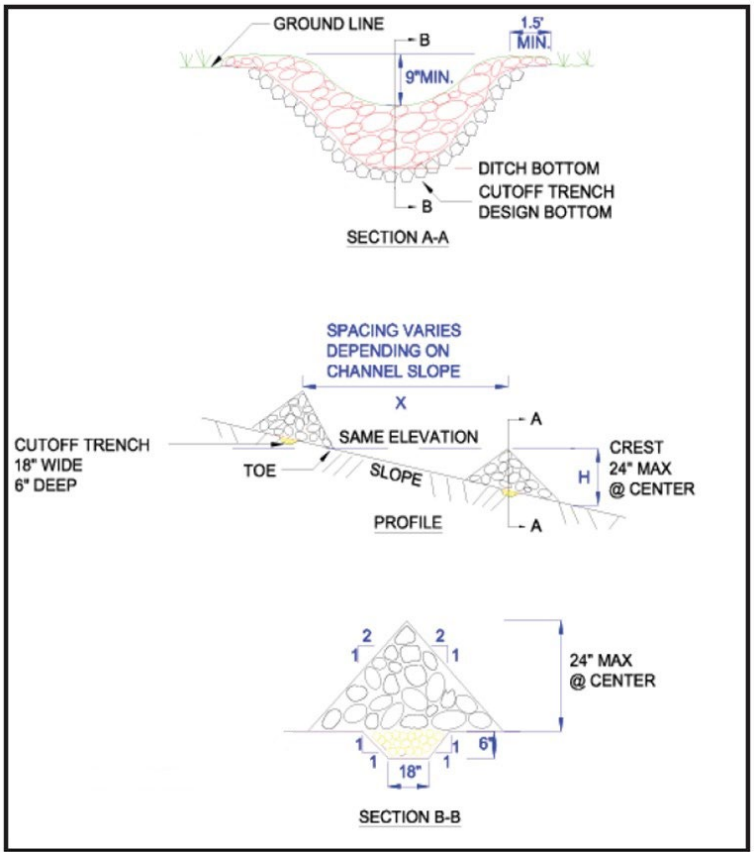
Lake Segment	Developed Lands % Reduction	MS4s within Lake Segment
04. Otter Creek	15.0%	Town of Rutland, City of Rutland

APPENDIX B – Check Dam Installation Specifications

- Height: No greater than 2 feet. Center of dam should be 9 inches lower than the side elevation
- Side slopes: 2:1 or flatter
- Stone size: Use a mixture of 2 to 9 inch stone
- Width: Dams should span the width of the channel and extend up the sides of the banks
- Spacing: Space the dams so that the bottom (toe) of the upstream dam is at the elevation of the top (crest) of the downstream dam. This spacing is equal to the height of the check dam divided by the channel slope.

  Spacing (in feet) = $\frac{\text{Height of check dam (in feet)}}{\text{Slope in channel (ft/ft)}}$

- Maintenance: Remove sediment accumulated behind the dam as needed to allow channel to drain through the stone check dam and prevent large flows from carrying sediment over the dam. If significant erosion occurs between check dams, a liner of stone should be installed.



APPENDIX C - Combined Compliance Schedules

April 1, 2025	Submit Annual Report and status report on the development of the Thermal and Flow Restoration Plans
December 1, 2025	Submit Annual Report and status report on the development of the Thermal and Flow Restoration Plans
Two years from permit issuance	Submit complete FRP and TRP to the Secretary for approval.
April 1, 2027 and every year thereafter	Submit Annual Reports
April 1, 2028	Submit REI Reassessment
December 5, 2032	Complete implementation of the approved FRP
June 17, 2036	Complete implementation of the approved PCP
May 11, 2038	Complete implementation of the approved TRP