

Vermont Agency of Natural Resources Stream Alteration General Permit

Summary of Jurisdictional Determination Parameters and Application Requirements 04/16/11

C.1. Exempt Activities

C.1.1. Emergency protective measures provided:

- a) The protective measures shall be limited to the minimum amount necessary to remove imminent threats to life or property; and
- b) Shall have prior approval from a member of the municipal legislative body; and
- c) Shall be reported to the Secretary of ANR by the legislative body within 72 hours after the onset of the emergency;

C.1.2. Projects involving less than 10 cubic yards of activity within the limits of a watercourse. The limits of a watercourse extend from the top of one bank to the top of the other. (Note: this provision includes debris removal provided any associated earthwork volume is less than 10 cubic yards);

C.1.3. Removal of up to 50 cubic yards of gravel per year provided:

- a) The material shall be removed only for the owner's use on the owner's property; and
- b) The material removed shall be above the waterline (note: only material from the unvegetated portion of an exposed sand or gravel deposit shall be removed); and
- c) At least 72 hours prior to the removal of 10 cubic yards, or more, the landowner shall notify the Secretary; and
- d) If the portion of the watercourse in question has been designated as outstanding resource waters, then the riparian owner may so remove no more than 10 cubic yards of gravel per year, and must notify the Secretary of ANR at least 72 hours prior to the removal of any gravel;

C.1.4. Dam related projects subject to 10 VSA Chapter 43;

C.1.5. VTrans transportation infrastructure projects subject to 19 VSA Section 10(12);

C.1.6. Accepted agricultural or silvicultural practices as defined by the secretary of agriculture, food and markets, or the commissioner of forests, parks and recreation, respectively;

C.1.7. Mineral prospecting utilizing hand panning;

C.1.8. Energy-related projects under the jurisdiction of Section 248; and

C.1.9. Projects in intermittent streams.

C.2.1. Non-Reporting Activities:

- a) Individual projects determined by ANR to constitute de minimus activities; and
- b) Any other project listed in C.2.1.1 through C.2.1.9. below that is conducted in compliance with the VT Water Quality Standards;

C.2.1.1. Activities other than those activities listed under C.2.1.2 through C.2.1.9. provided:

- a) The activity is conducted where the drainage area of the upstream watershed is less than 1.0 square miles; and
- b) The activity is consistent with and supports the Equilibrium Standard.

C.2.1.2. Directionally bored utility crossings involving no earthwork within the watercourse.

C.2.1.3. Municipal dry hydrants provided the intake is installed within 50 linear feet of a municipal bridge or culvert.

C.2.1.4. Repair or replacement of existing bridges provided:

- a) Scour protection or erosion treatments do not reduce the channel cross section dimensions and cross sectional area; and
- b) There is no channel realignment; and
- c) There is no roadway realignment from bed and bank areas which are less erodible (e.g., bedrock areas) to an area where the bed and banks are more erodible ; and
- d) The repaired or replacement structure provides a span length 1.2X bank full width or greater at the streambed elevation; and
- e) The repaired or replacement structure provides a Q25 headwater depth + one (1) foot that is no higher than the elevation of the lowest superstructure element; and
- f) Any temporary structure for traffic maintenance during construction provides a span length 1.0X bank full width¹ or greater.

C.2.1.5. New private temporary pr permanent stream crossing structures of any type or replacement of existing culverts provided:

- a) The structure span length at the streambed elevation is no less than 1.2X bank full width; and
- b) The Q25 headwater depth+ one (1) foot is no higher than the elevation of the lowest superstructure element of a bridge or the top of the inlet opening of a buried structure; and
- c) The structure shall not obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area. To meet this provision of the General Permit and to qualify as a Non-Reporting Activity, the project shall be designed, in consideration of current and future conditions, such that the stream will naturally and permanently retain,

¹ Technical guidance for determining the bankfull width of a stream may be found at:
http://www.anr.state.vt.us/dec/waterq/rivers/htm/rv_management.htm.

through the structure, the substrate composition, bedforms, vertical profile, horizontal alignment, and flow velocities, turbulence, and depth similar to adjacent stream reaches. Technical guidance for designing stream crossings for aquatic organism passage can be found at:

http://www.vtfishandwildlife.com/fisheries_AOP.cfm; and

- d) Minimal earthwork is required to construct roadway approaches to the crossing; and
- e) Stream alignment at and upstream of the structure is relatively straight; and
- f) No significant stream bank erosion, streambed degradation or other indicators of active lateral or vertical adjustment of the channel is present; and
- g) If the proposed project is located in a Flood Hazard Area as designated in the municipal Flood Hazard Area regulations, prior to construction, a municipal zoning permit is obtained in compliance with such regulations.

C.2.1.6. Projects fully or partially funded through FEMA Public Assistance, Hazard Mitigation Assistance, USDA Emergency Watershed Protection, or Better Back Roads programs that have been technically reviewed and endorsed by the Secretary.

C.2.1.7. Fluvial geomorphic, channel, flood plain, and aquatic habitat restoration projects that have been technically reviewed and endorsed by the Secretary.

C.2.1.8. At-grade fords provided:

- a) The ford is properly stabilized with clean stone fill; and
- b) No change in existing channel cross-section and bed elevation except for minor bank grading at the point of the crossing.

C.2.1.9. Maintenance of existing channelized perennial streams less than 0.5 square miles of watershed size, i.e. those through and around roadsides and agricultural fields, and streams diverted for water supply purposes, provided:

- a) The maintenance work is conducted in a manner which minimizes or avoids any discharge of sediment or other pollutants to surface waters; and
- b) If the work is in association with agricultural lands, vegetated buffers as required under applicable Accepted Agricultural Practices (AAPs), Medium or Large Farm Operation Permits, and/or other applicable rules are maintained; and
- c) Erosional channels are appropriately stabilized with vegetative and/or structural treatments; and
- d) Excavated sediments are disposed appropriately; and
- e) Project improvements that move toward attainment of the Equilibrium Standard are implemented wherever feasible..

C.2.2. Reporting Activities:

C.2.2.1. Activities in perennial streams with watershed areas less than 10.0 square miles that do not meet the equilibrium standard in C.2.1.1. **or** do not meet the activity-specific requirements in C.2.1.2. through C.2.1.8;

C.2.2.2. Maintenance of existing channelized perennial streams, i.e., those through and around roadsides and agricultural fields, and streams diverted for water supply purposes; with watershed areas:

- a) Less than 0.5 square miles, that does not meet the criteria specified in C.2.1.9.
- b) 0.5 square miles or greater, but less than 10.0 square miles of watershed size, regardless of whether the criteria specified in C.2.1.9. are met; and

C.2.2.3. Any other Non-Exempt Activity in a designated Outstanding Resource Water or on a stream with a watershed area 1.0 square miles or greater, but less than 10.0 square miles (see C.1. above for a list of Statutorily Exempt Activities). An example under this provision would be an activity on a perennial stream with a one to ten square mile watershed area meeting the equilibrium standard.

C.2.3. Reporting Requirements – The application form is available from the ANR and shall be accompanied by, at a minimum:

- a) A location map, w/ project description, landowner, and contractor(s);
- b) A plan view, longitudinal profile, and at least one typical cross section; with
- c) Each drawing depicting both existing and proposed conditions; and
- d) A reporting fee if the project is located in watershed size > 1.0 square miles.

A copy of the application shall be provided, by the applicant, to the:

- 1. Clerk of the municipality in which the activity is located,
- 2. Regional planning commission, and
- 3. Owners of land adjoining the project site.

The applicant shall certify these notifications, and the agency may, upon review, require submittal of additional information. No action may be taken by the Secretary until at least 10 business days have elapsed following receipt of the notification.

D. Individual Stream Alteration Permits

An individual stream alteration permit shall be required for any activity that is:

- a) Not a statutorily Exempt Activity (as listed in C.1 above);
- b) Conducted in a stream with a watershed area of 10 square miles or greater; and
- c) Not otherwise authorized as non-reporting in C.2.1.2. through C.2.1.8

An individual permit shall also be required for any project if deemed necessary by the Secretary.

The Secretary may, upon review, determine any application for an individual permit to constitute a de minimus activity consistent with the requirements of 10 VSA §1023(a); which may then proceed as a Non-Reporting Activity.

Definitions

“Equilibrium Standard” means the activity does not change the physical integrity of the stream in a manner which departs from, further departs from, or impedes the attainment of the channel width, depth, meander pattern, and longitudinal slope associated with natural equilibrium conditions. Equilibrium conditions occur when water flow, sediment, and woody debris are transported by the stream channel in such a manner that the stream maintains its dimension, general pattern, and slope without unnaturally aggrading (raising) or degrading (lowering) the channel bed elevation². The requirements of 10 VSA §1023(a) are met through attainment and maintenance of equilibrium conditions.

Perennial stream” means, for the purposes of administering this general permit, a watercourse or portion, segment, or reach of a watercourse, generally exceeding 0.5 square miles in watershed size, in which surface flows are not frequently or consistently interrupted during normal seasonal low flow periods. All other streams, or stream segments of significant length, shall be considered and termed intermittent. Streams with watershed areas less than 0.5 square miles may be determined in the field as perennial streams. Human caused interruptions of flow (e.g. flow fluctuations associated with hydroelectric facility operations or water withdrawals) shall not influence the Secretary’s determination of a perennial stream, for purposes of this general permit. A perennial stream shall not include the standing waters in wetlands, lakes, and ponds. For purposes of this general permit, the exclusion of “ditches or other constructed channels primarily associated with land drainage or water conveyance” from the definition of “watercourse” in 10 V.S.A. §1002(10), shall not be interpreted to include perennial streams that have been excavated and re-formed into a straightened, channelized condition. Additional technical guidance, including town-based maps, for the evaluation and identification of perennial streams is available at:

http://www.anr.state.vt.us/dec/waterq/rivers/htm/rv_management.htm.

² Technical guidance for evaluating equilibrium conditions is available at http://www.anr.state.vt.us/dec/waterq/rivers/htm/rv_management.htm.