



# State of Vermont

Department of Fish and Wildlife  
Department of Forests, Parks and Recreation  
Department of Environmental Conservation  
State Geologist  
RELAY SERVICES FOR HEARING IMPAIRED  
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AGENCY OF NATURAL RESOURCES  
**Department of Environmental Conservation**  
Wastewater Management Division  
103 South Main St. - Sewing Bldg.  
Waterbury VT 05671-0405  
Telephone: (802) 241-3822  
FAX: (802) 241-2596

September 2, 2004

Paul Bohne III  
Town of Shelburne  
PO Box 392  
Shelburne, VT 05482

**RE: Discharge Permit No. 3-1304 – Harbor Road Wastewater Treatment Facility**

Dear Mr. Bohne,

Enclosed is your copy of Discharge Permit No. 3-1304, which has been signed on behalf of the Commissioner of the Department of Environmental Conservation. This permit authorizes the discharge of treated and disinfected municipal wastewater from the Harbor Road Wastewater Water Treatment Facility to McCabes Brook. Please review the permit carefully and note of the effluent limitations, monitoring requirements, and other special conditions. There are several changes in this permit from the permit that currently authorizes your discharge. Specifically:

1. The phosphorus effluent limitations and reporting requirements have been modified to reflect the Lake Champlain Total Maximum Daily Load (TMDL) for phosphorus.
2. Additional annual pollutants testing has been incorporated to comply with new federal regulations.
3. To ensure that the expanded and upgraded WWTF does not cause ammonia toxicity in McCabes Brook, seasonal ammonia limitations have been included and ammonia sampling has been increased to once per week.

With respect to addressing emergency power and/or storage, it will be necessary for the Town to complete and if necessary, update the emergency power plan within 30 days of the effective date of the permit.

We did not receive any comments on the draft permit during the public comment period. Therefore, the final permit is unchanged from the draft that was placed on public notice.

Please note that this permit does not become effective until January 1, 2005 and if you have any questions regarding this permit, please contact Randy Bean at our office.

Sincerely,

  
Brian D. Kooker, Chief  
Direct Discharge and O&M Section

attachments  
cc. w/attachments  
Dennis Bryer, VT DEC WWMD  
Dave Rathburn, Town of Shelburne

AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WASTEWATER MANAGEMENT DIVISION  
103 SOUTH MAIN STREET  
WATERBURY, VERMONT 05671-0405

Permit No.: 3-1304  
File No.: 04-13  
PIN: EJ94-0011  
NPDES No.: VT0100820

Name of Applicant: Town of Shelburne  
PO Box 392  
Shelburne, VT 05482

Expiration Date: December 31, 2009

DISCHARGE PERMIT

In compliance with the provisions of the Vermont Water Pollution Control Act as amended (hereinafter referred to as the "Act") and the Federal Clean Water Act, as amended (33 U.S.C. §1251 et seq), the Town of Shelburne, Vermont (hereinafter referred to as the "permittee") is authorized by the Secretary, Agency of Natural Resources, Waterbury, Vermont, to discharge from the "Harbor Road" Wastewater Treatment Facility to McCabes Brook in accordance with the following general and special conditions.

This permit shall become effective on **January 1, 2005** and shall expire on **December 31, 2009**.

Jeffrey Wennberg, Commissioner  
Department of Environmental Conservation

By: *Christine Thompson*  
for Christine Thompson, Director  
Wastewater Management Division

Date: SEPTEMBER 2, 2004

**I. SPECIAL CONDITIONS**

**A. EFFLUENT LIMITS**

1. From January 1, 2005 until December 31, 2009 the permittee is authorized to discharge from S/N 001 - outfall, the "Harbor Road" Wastewater Treatment Facility, to McCabes Brook, an effluent whose characteristics shall not exceed the values listed below:

DISCHARGE LIMITATIONS								
Effluent Characteristic	Annual Limitation	Monthly Average	Weekly Average	Maximum Day	Monthly Average	Weekly Average	Maximum Day	Instantaneous Maximum
		..... (lbs / day) .....			..... (Concentration) .....			
Flow (Annual Average)	0.66 MGD							
Ultimate Oxygen Demand (a)				482				
Biochemical Oxygen Demand, 5-day, 20°C (a)		113	169		30 mg/l	45 mg/l	50 mg/l	
Total Suspended Solids (b)		113	169		30 mg/l	45 mg/l	50 mg/l	
Total Phosphorus (total pounds) (c)	1095				0.8 mg/l			
Settleable Solids								1.0 ml/l
Total Ammonia [June 1 to September 30]		8.1		58.4				
Total Ammonia [October 1 to May 31]		20.4		70.6				
Total Kjeldahl Nitrogen (a)				monitor only			monitor only	
Escherichia coli Bacteria								77/100 ml
pH					Between 6.5 and 8.5 Standard Units			
Whole Effluent Toxicity NOEL-C (d)					seasonal (refer to e below)			

- (a) The Ultimate Oxygen Demand (UOD) limit shall be in effect during the period of June 1 to September 30 each year. In addition, the quantity of BOD and TKL discharged shall be limited such that the discharge does not exceed the UOD limitation or the BOD limitations, whichever is more stringent.
- (b) The permittee shall operate the facility to meet the Total Suspended Solids concentration limitation, or the Total Suspended Solids pounds limitation, or to provide a Total Suspended Solids concentration that ensures that the ultraviolet light disinfection system can meet the Escherichia coli bacteria limitation, whichever is more restrictive.
- (c) Total Annual Pounds of Phosphorus discharge shall be defined as the sum of all the Total Monthly Pounds of Phosphorus discharged for the calendar year. Total Monthly Pounds of Phosphorus discharged shall be calculated as follows:  
(Monthly Average Phosphorus Concentration) x (Total Monthly Flow) x 8.34 (See Total Phosphorus monitoring report form WR43-PO4.)
- (d) NOEL-C is the concentration of effluent in a sample that causes No observed (chronic) effect to a test population at a 7 day exposure interval of observation.
- (e) From June 1 through September 30 the Whole Effluent Toxicity , NOEL-C, limitation is  $\geq 79\%$ . From October 1 through May 31, the Whole Effluent Toxicity, NOEL-C, limitation is  $\geq 66\%$ .

2. The effluent shall not have concentrations or combinations of contaminants including oil, grease, scum, foam, or floating solids which would cause a violation of the water quality standards of the receiving waters.
3. The discharge shall not cause visible discoloration of the receiving waters.
4. The monthly average concentrations of BOD5 and total suspended solids in the discharge shall not exceed 15 percent of the monthly average concentrations of BOD5 and total suspended solids in the influent into the permittee's wastewater treatment facilities. For the purposes of determining whether the permittee is in compliance with this condition, samples from the discharge and the influent shall be taken with appropriate allowance for detention times. See Part I, Special Conditions, Paragraph F.2., Effluent Monitoring.
5. When the effluent discharged for a period of 90 consecutive days exceeds 80 percent of the permitted flow limitation, the permittee shall submit to the permitting authority projected loadings and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.
6. Any action on the part of the Agency of Natural Resources in reviewing, commenting upon or approving plans and specifications for the construction of wastewater treatment facilities shall not relieve the permittee from the responsibility to achieve effluent limitations set forth in this permit and shall not constitute a waiver of, or act of estoppel against any remedy available to the Agency, the State of Vermont or the federal government for failure to meet any requirement set forth in this permit or imposed by state or federal law.
7. The permittee shall clean the quartz sleeves of the ultraviolet light disinfection system at a frequency which assures that effective disinfection is maintained and shall replace the Ultraviolet Light disinfection lamps **as necessary to maintain compliance with the E. coli bacteria limitation**. The dates and a description of the Ultraviolet Light disinfection system maintenance activities shall be included on the monthly monitoring report.
8. The permittee shall maintain processing capacity for use only in receiving and processing septage for the useful life of the facility as required under 10 V.S.A. '1626a (a), (c) and (d). Such septage shall be accepted from any Vermont municipality, and shall not be restricted to specific municipalities. The rate or rates charged for acceptance by the plant of septage from sources other than the users for whom the plant is designed primarily to serve, shall be equal to the rate or rates.
9. The permittee shall provide public notification of an extended major disinfection system failure.
  - a. An extended major disinfection system failure is considered to have occurred when the analytical results received from two or more samples indicate that the E. coli concentration in discharge S/N 001 exceeds 770/100ml.

- i. if the permittee receives analytical results which indicates that the E.coli concentration in discharge S/N 001 exceeds 770/100ml, the permittee shall immediately conduct additional sampling and analysis of S/N 001 for E.coli.
- b. In the event of an extended major disinfection system failure, the permittee shall take the following actions at the earliest practical opportunity and in all cases within 12 hours:
  - i. Notify the local health officer and take any action as may be directed under the authority of the local health officer;
  - ii. Notify the Vermont Department of Environmental Conservation, Wastewater Management Division;
  - iii. Notify the following municipal departments or officials:  
City of South Burlington  
Champlain Water District, and;
  - iv. If the disinfection system failure occurs between April 1 and October 31, then the permittee shall also notify the Town of Shelburne Department of Parks and Recreation.

**B. WASTE MANAGEMENT ZONE**

In accordance with 10 V.S.A. Section 1252, this permit hereby establishes a waste management zone that extends from the outfall of the Harbor Road Wastewater Treatment Facility in the McCabes Brook downstream 1.6 miles (to the confluence of the LaPlatte River and Shelburne Bay).

**C. REAPPLICATION**

If the permittee desires to continue to discharge after the expiration of this permit, the permittee shall reapply on the application forms then in use at least 180 days before this permit expires.

Reapply for a Discharge Permit by: June 30, 2009

**D. OPERATING FEES**

This discharge is subject to operating fees. The permittee shall submit the operating fees in accordance with the procedures provided by the Secretary.

**E. WHOLE EFFLUENT TOXICITY TESTING**

The test shall be a one specie (*Pimephales promelas*), 7 day chronic, Whole Effluent Toxicity (WET) test. An ammonia analysis shall be conducted on the initial sample, the dilution water and the replenishment water.

Based upon the results of these tests or any other toxicity tests conducted on this discharge, this permit may be amended to require additional Whole Effluent Toxicity testing or a Toxicity Reduction Evaluation be conducted.

The results of these tests shall be included as an addendum to the appropriate monthly WR-43 report.

## **F. MONITORING AND REPORTING**

### **1. Sampling and Analysis**

The sampling, preservation, handling, and analytical methods used shall conform to regulations published pursuant to Section 304(g) of the Clean Water Act, under which such procedures may be required. Guidelines establishing these test procedures have been published in the Code of Federal Regulations, Title 40, Part 136 (Federal Register, Vol. 56, No. 195, July 1, 1999 or as amended).

If applicable, *Escherichia coli* shall be tested using test method 9213 D. found in Standard Methods for the Examination of Water and Wastewater, 18th or subsequent edition(s).

Samples shall be representative of the volume and quality of effluent discharged over the sampling and reporting period. All samples are to be taken during normal operating hours. The permittee shall identify the effluent sampling location used for each discharge.

## 2. Effluent Monitoring

The permittee shall monitor and record the quality and quantity of discharge(s) S/N 001 - outfall, the Harbor Road Wastewater Treatment Facility, according to the following schedule and other provisions:

Until December 31, 2009

PARAMETER	MINIMUM FREQUENCY OF ANALYSIS	SAMPLE TYPE
Flow	Continuous	Daily Total, Max., Min.
UOD	1 x weekly	calculated <sup>(1)</sup>
BOD <sub>5</sub>	1 x weekly	8 hour composite <sup>(2)</sup>
TSS	1 x weekly	8 hour composite <sup>(2)</sup>
Total Phosphorus	1 x weekly	8 hour composite <sup>(2)</sup>
TKN	1 x weekly	8 hour composite <sup>(1,2)</sup>
Settleable Solids	1 x daily	grab <sup>(3)</sup>
Escherichia coli Bacteria	1 x weekly	grab <sup>(3)</sup>
Total Ammonia	1 x weekly	grab <sup>(3)</sup>
pH	1 x daily	grab <sup>(3)</sup>
Whole Effluent Toxicity	2 x annually	8 hour composite <sup>(2,4)</sup>

<sup>(1)</sup> UOD and TKN monitoring is only required between June 1 and September 30.

UOD shall be calculated using the following equation:

$$\text{UOD (lbs/day)} = [(\text{BOD}_5 \text{ lbs/day} \times 1.43) + (\text{TKN lbs/day} \times 4.57)]$$

<sup>(2)</sup> Composite samples for BOD<sub>5</sub>, TSS, Total Phosphorus, Whole Effluent Toxicity, and TKN (when applicable) shall be taken during the hours 6:00 a.m. to 6:00 p.m., unless otherwise specified. Eight hours is the minimum period for the composite.

<sup>(3)</sup> Grab samples shall be collected in an alternating manner to be representative of each SBR cell discharged (For example, on Monday the sample shall be collected as cell #1 discharges, on Tuesday the sample shall be collected as cell#2 discharges etc.).

<sup>(4)</sup> Whole Effluent Toxicity tests shall be performed during the months of August or September and the month of February.

Annually by December 31, the permittee shall monitor discharge S/N 001 and submit the results, including units of measure, for the following parameters:

Temperature  
Nitrate/Nitrite

Dissolved Oxygen  
Total Dissolved Solids

Oil & Grease

Grabs samples shall be used for temperature, ammonia, dissolved oxygen, and oil & grease. All other parameters shall be composite samples. Samples shall be representative of seasonal variations in the discharge.

### 3. Influent Monitoring

The permittee shall monitor the quality of the influent according to the following schedule and other provisions.

PARAMETER	MINIMUM FREQUENCY OF ANALYSIS	SAMPLE TYPE
Influent BOD5	1 x monthly	8 - hour composite, minimum <sup>(1)</sup>
Influent TSS	1 x monthly	8 - hour composite, minimum <sup>(1)</sup>
Septage	Daily	Total Volume Received (gpd)

<sup>(1)</sup> Composite samples for BOD5 and TSS shall be taken during the hours of 6:00 a.m. to 6:00 p.m., unless otherwise specified. Eight hours is the minimum period for the composite.

### 4. Reporting

The permittee is required to submit monthly reports of monitoring results on form WR-43. Reports are due on the 15th day of each month, beginning with the month following the effective date of this permit.

If, in any reporting period, there has been no discharge, the permittee must submit that information by the report due date.

Signed copies of these, and all other reports required herein, shall be submitted to the Secretary at the following address:

Agency of Natural Resources  
 Department of Environmental Conservation  
 Wastewater Management Division  
 103 South Main Street  
 Waterbury, Vermont 05671-0405

All reports shall be signed:

- a. In the case of corporations, by a principal executive officer of at least the level of vice president, or his/her duly authorized representative, if such representative is responsible for the overall operation of the facility from which the discharge described in the permit form originates;
- b. In the case of a partnership, by a general partner;

- c. In the case of a sole proprietorship, by the proprietor;
- d. In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

In addition to the monitoring and reporting requirements given above, daily monitoring of certain parameters for operational control are required by the Agency. Operations reports (reporting form WR-43) shall be submitted monthly.

#### 5. **Recording of Results**

The permittee shall maintain records of all information resulting from any monitoring activities required, including:

- a. The exact place, date, and time of sampling;
- b. The dates and times the analyses were performed;
- c. The person(s) who performed the analyses;
- d. The analytical techniques and methods used including sample collection handling and preservation techniques;
- e. The results of all required analyses.
- f. The records of monitoring activities and results, including all instrumentation and calibration and maintenance records;
- g. The original calculation and data bench sheets of the operator who performed analysis of the influent or effluent pursuant to requirements of Section I.(A) of this permit.

The results of monitoring requirements shall be reported (in the units specified) on the Vermont reporting form WR-43 or other forms approved by the Secretary.

#### 6. **Additional Monitoring**

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form WR-43. Such increased frequency shall also be indicated.

#### F. **DRY WEATHER FLOWS**

Dry weather flows of untreated municipal wastewater from any sanitary or combined sewers are not authorized by this permit and are specifically prohibited by State and Federal laws and regulations.

#### G. **EMERGENCY ACTION - ELECTRIC POWER FAILURE**

The permittee shall indicate in writing to the Secretary **within 30 days after the effective date of this permit** that the discharge shall be handled in such a manner that, in the event the primary source of electric power to the waste treatment facilities (including pump stations)

fails, any discharge into the receiving waters will attempt to comply with the conditions of this permit, but in no case shall the wastes receive less than primary treatment (or its equivalent) plus disinfection.

The permittee shall either provide an alternative source of power for the operation of its treatment facilities, or demonstrate that the treatment facility has the capacity to store the wastewater volume that would be generated over the duration of the longest power failure that would have affected the facility in the last five years, excluding catastrophic events.

The alternative power supply, whether from a generating unit located at the plant site or purchased from an independent source of electricity, must be separate from the existing power source used to operate the waste treatment facilities. If a separate unit located at the plant site is to be used, the permittee shall certify in writing to the Secretary when the unit is completed and prepared to generate power.

The determination of treatment system storage capacity shall be submitted to the Wastewater Management Division upon completion.

#### **H. SEWER ORDINANCE**

The permittee shall have in effect a sewer use ordinance acceptable to the Secretary which, at a minimum, shall

1. Prohibit the introduction by any discharger into the permittee's sewerage system or treatment facilities of any pollutant which:
  - a. is a toxic pollutant in toxic amounts as defined in standards issued from time to time under Section 307(a) of the Clean Water Act;
  - b. creates a fire or explosion hazard in the permittee's treatment works;
  - c. causes corrosive structural damage to the permittee's treatment works, including all wastes with a pH lower than 5.0;
  - d. contains solid or viscous substances in amounts which would cause obstruction to the flow in sewers or other interference with proper operation of the permittee's treatment works; or
  - e. in the case of a major contributing industry, as defined herein, contains an incompatible pollutant, as further defined herein, in an amount or concentration in excess of that allowed under standards or guidelines issued from time to time pursuant to Sections 304, 306, and/or 307 of the Clean Water Act.
2. Require 45 days prior notification to the permittee by any person or persons of a:
  - a. proposed substantial change in volume or character of pollutants over that being discharged into the permittee's treatment works at the time of issuance of this permit;

- b. proposed new discharge into the permittee's treatment works of pollutants from any source which would be a new source as defined in Section 306 of the Clean Water Act if such source were discharging pollutants; or
  - c. proposed new discharge into the permittee's treatment works of pollutants from any source which would be subject to Section 301 of the Clean Water Act if it were discharging such pollutants.
3. Require any industry discharging into the permittee's treatment works to perform such monitoring of its discharge as the permittee may reasonably require, including the installation, use, and maintenance of monitoring equipment methods, to keep records of the results of such monitoring, and to report the results of such monitoring to the permittee. Such records shall be made available by the permittee to the Secretary upon request.
  4. Authorize the permittee's authorized representatives to enter into, upon, or through the premises of any industry discharging into the permittee's treatment works to have access to and copy any records, to inspect any monitoring equipment or method required under subsection 3 above, and to sample any discharge into the permittee's treatment works.

The permittee shall notify the Secretary of any discharge specified in subsection 2 above within 30 days of the date on which the permittee is notified of such discharge. This permit may be modified accordingly.

## II. GENERAL CONDITIONS

### A. MANAGEMENT REQUIREMENTS

#### 1. Facility Modification / Change in Discharge

All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant more frequently than, or at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit. Such a violation may result in the imposition of civil and/or criminal penalties as provided for in Section 1274 and 1275 of the Vermont Water Pollution Control Act. Any anticipated facility expansions or process modifications which will result in new, different, or increased discharges of pollutants must be reported by submission of a new permit application or, if such changes will not violate the effluent limitations specified in this permit, by notice to the permit issuing authority of such changes. Following such notice, the permit may be modified to specify and limit any pollutants not previously limited.

In addition, the permittee shall provide notice to the Secretary of the following:

- a. any new introduction of pollutants into the treatment works from a source which would be a new source as defined in Section 306 of the Clean Water Act if such source were discharging pollutants;
- b. except for such categories and classes of point sources or discharges specified by the Secretary, any new introduction of pollutants into the treatment works from a source which would be subject to Section 301 of the Clean Water Act if such source were discharging pollutants; and
- c. any substantial change in volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into such works at the time of issuance of the permit.

The notice shall include:

- i. the quality and quantity of the discharge to be introduced into the system, and
- ii. the anticipated impact of such change in the quality or quantity of the effluent to be discharged from the permitted facility.

## 2. **Noncompliance Notification**

In the event the permittee is unable to comply with any of the conditions of this permit due, among other reasons, to:

- a. breakdown or maintenance of waste treatment equipment (biological and physical-chemical systems including, but not limited to, all pipes, transfer pumps, compressors, collection ponds or tanks for the segregation of treated or untreated wastes, ion exchange columns, or carbon absorption units),
- b. accidents caused by human error or negligence, or
- c. other causes such as acts of nature,

the permittee shall notify the Secretary within 24 hours of becoming aware of such condition or by the next business day and shall provide the Secretary with the following information, in writing, within five (5) days:

- i. cause of non-compliance
- ii. a description of the non-complying discharge including its impact upon the receiving water;
- iii. anticipated time the condition of non-compliance is expected to continue or, if such condition has been corrected, the duration of the period of non-compliance;

- iv. steps taken by the permittee to reduce and eliminate the non-complying discharge; and
- v. steps to be taken by the permittee to prevent recurrence of the condition of non-compliance.

### 3. **Operation and Maintenance**

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. The permittee shall, at all times, maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance, and testing functions required to insure compliance with the conditions of this permit; and
- c. The operation and maintenance of this facility shall be performed only by qualified personnel. The personnel shall be certified as required under the Vermont Water Pollution Abatement Facility Operator Certification Regulations.

### 4. **Quality Control**

The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at regular intervals to ensure accuracy of measurements, or shall ensure that both activities will be conducted.

The permittee shall keep records of these activities and shall provide such records upon request of the Secretary.

The permittee shall demonstrate the accuracy of the flow measurement device weekly and report the results on the monthly report forms. The acceptable limit of error is  $\pm 10\%$ .

The permittee shall analyze any additional samples as may be required by the Agency of Natural Resources to ensure analytical quality control.

### 5. **Bypass**

The diversion or bypass of facilities (including pump stations) necessary to maintain compliance with the terms and conditions of this permit is prohibited, except where authorized under the terms and conditions of an Emergency Pollution Permit issued pursuant to 10 V.S.A. Section 1268.

**6. Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or prevent any adverse impact to waters of the State resulting from non-compliance with any condition specified in this permit, including accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.

**7. Records Retention**

All records and information resulting from the monitoring activities required by this permit including all records of analyses performed, calibration and maintenance of instrumentation, and recordings from continuous monitoring instrumentation shall be retained for a minimum of three (3) years, and shall be submitted to Department representatives upon request. This period shall be extended during the course of unresolved litigation regarding the discharge of pollutants or when requested by the Secretary.

**8. Solids Management**

Collected screenings, sludges, and other solids removed in the course of treatment and control of wastewaters shall be stored, treated and disposed of in accord with 10 V.S.A., Chapter 159 and with the terms and conditions of any certification, interim or final, transitional operation authorization or order issued pursuant to 10 V.S.A., Chapter 159 that is in effect on the effective date of this permit or is issued during the term of this permit.

**9. Emergency Pollution Permits**

Maintenance activities, or emergencies resulting from equipment failure or malfunction, including power outages, which result in an effluent which exceeds the effluent limitations specified herein, shall be considered a violation of the conditions of this permit, unless the permittee immediately applies for, and obtains, an emergency pollution permit under the provisions of 10 V.S.A., Chapter 47, Section 1268. The permittee shall notify the Department of the emergency situation by the next working day.

10 V.S.A., Chapter 47, Section 1268 reads as follows:

"When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, he may apply in the manner specified by the secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. The permit may be issued without prior public notice if the nature of the emergency will not provide sufficient time to give notice; provided that the secretary shall give public notice as soon as possible but in any event no later than five days after the effective date of the emergency pollution permit. No emergency pollution permit shall be issued unless the applicant certifies and the secretary finds that:

- (1) there is no present, reasonable alternative means of disposing of the waste other than by discharging it into the waters of the state during the limited period of time of the emergency;
- (2) the denial of an emergency pollution permit would work an extreme hardship upon the applicant;
- (3) the granting of an emergency pollution permit will result in some public benefit;
- (4) the discharge will not be unreasonably harmful to the quality of the receiving waters;
- (5) the cause or reason for the emergency is not due to wilful or intended acts or omissions of the applicant."

Application shall be made to the Secretary of the Agency of Natural Resources, Department of Environmental Conservation, 103 South Main Street, Waterbury, Vermont 05671-0405.

## **B. RESPONSIBILITIES**

### **1. Right of Entry**

The permittee shall allow the Secretary or authorized representative, upon the presentation of proper credentials:

- a. to enter upon the permittee's premises in which an effluent source or any records required to be kept under terms and conditions of the permit are located;
- b. to have access to and copy any records required to be kept under the terms and conditions of the permit;
- c. to inspect any monitoring equipment or method required in the permit; or
- d. to sample any discharge of pollutants.

### **2. Transfer of Ownership or Control**

This permit is not transferable without prior written approval of the Secretary. All application and operating fees must be paid in full prior to transfer of this permit. In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the permittee shall provide a copy of this permit to the succeeding owner or controller and shall send written notification of the change in ownership or control to the Secretary. The permittee shall also inform the prospective owner or operator of their responsibility to make an application for transfer of this permit. This application must include as a minimum; a written statement from the prospective owner or operator certifying:

- a. The conditions of the operation that contribute to, or affect, the discharge will not be materially different under the new ownership.
- b. The prospective owner or operator has read and is familiar with the terms of the permit and agrees to comply with all terms and conditions of the permit.
- c. The prospective owner or operator has adequate funding to operate and maintain the treatment system and remain in compliance with the terms and conditions of the permit.
- d. The date of the sale or transfer.

The Department may require additional information dependent upon the current status of the facility operation, maintenance, and permit compliance.

### 3. Confidentiality

Pursuant to 10 V.S.A. 1259(b):

“Any records, reports or information obtained under this permit program shall be available to the public for inspection and copying. However, upon a showing satisfactory to the secretary that any records, reports or information or part thereof, other than effluent data, would, if made public, divulge methods or processes entitled to protection as trade secrets, the secretary shall treat and protect those records, reports or information as confidential. Any records, reports or information accorded confidential treatment will be disclosed to authorized representatives of the state and the United States when relevant to any proceedings under this chapter.”

### 4. Permit Modification

After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

- a. violation of any terms or conditions of this permit;
- b. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- c. a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

**5. Toxic Effluent Standards**

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under section 307(a) of the Federal Act for a toxic pollutant which is present in the permittee's discharge and such standard or prohibition is more stringent than any limitation upon such pollutant in this permit, then this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

**6. Oil and Hazardous Substance Liability**

Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under 10 V.S.A. §1281.

**7. Other Materials**

Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- a. They are not:
  - i. designated as toxic or hazardous under provisions of Sections 307 and 311, respectively, of the Clean Water Act, or
  - ii. known to be hazardous or toxic by the permittee, except that such materials indicated in (a) and (b) above may be discharged in certain limited amounts with the written approval of, and under special conditions established by, the Secretary or his designated representative, if the substances will not pose any imminent hazard to the public health or safety;
- b. The discharge of such materials will not violate applicable water quality standards; and
- c. The permittee is not notified by the Secretary to eliminate or reduce the quantity of such materials entering the watercourse.

**8. Navigable Waters**

This permit does not authorize or approve the construction of any onshore or offshore physical structures or facilities or the undertaking of any work in any navigable waters.

**9. Civil and Criminal Liability**

Except as provided in, "Bypass" (Part II.A., paragraph 5.), "Emergency Action - Electric Power Failures" (Part I, paragraph G.), and "Emergency Pollution Permits"

(Part II.A., paragraph 9.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Civil penalties, as authorized under 10 V.S.A. §1274 and 10 V.S.A. §8010, shall not exceed \$10,000 a day for each day of violation. Criminal penalties, as authorized under 10 V.S.A. §1275, shall not exceed \$25,000 for each day of violation, imprisonment for up to six months, or both.

**10. State Laws**

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

**11. Property Rights**

Issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

**12. 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.

**13. Authority**

This permit is issued under authority of 10 V.S.A. §1259 which states that: "No person shall discharge any waste, substance, or material into waters of the State, nor shall any person discharge any waste, substance, or material into an injection well or discharge into a publicly owned treatment works any waste which interferes with, passes through without treatment, or is otherwise incompatible with those works or would have a substantial adverse effect on those works or on water quality, without first obtaining a permit for that discharge from the Secretary", and under the authority of Section 402 of the Clean Water Act, as amended.

**14. Definitions**

For purposes of this permit, the following definitions shall apply.

**The Act** - The Vermont Water Pollution Control Act, 10 V.S.A. Chapter 47

**Annual Average** - The highest allowable average of daily discharges calculated as the sum of all daily discharges (mg/l, lbs or gallons) measured during a calendar year divided by the number of daily discharges measured during that year.

**Average** - The arithmetic means of values taken at the frequency required for each parameter over the specified period.

**The Clean Water Act** - The federal Clean Water Act, as amended.

**Composite Sample** - A sample consisting of a minimum of one grab sample per hour collected during a 24-hour period (or lesser period as specified in the section on Monitoring and Reporting) and combined proportionally to flow over that same time period.

**Daily Discharge** - The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

For pollutants with limitations expressed in pounds the daily discharge is calculated as the total pounds of pollutants discharged over the day.

For pollutants with limitations expressed in mg/l the daily discharge is calculated as the average measurement of the pollutant over the day.

**Grab Sample** - An individual sample collected in a period of less than 15 minutes.

**Incompatible Substance (Pollutant)** - Any waste being discharged into the treatment works which interferes with, passes through without treatment, or is otherwise incompatible with said works or would have a substantial adverse effect on these works or on water quality. This includes all pollutants required to be regulated under the Federal Clean Water Act.

**Instantaneous Maximum** - A value not to be exceeded in any grab sample.

**Major Contributing Industry** - One that: (1) has a flow of 50,000 gallons or more per average work day; (2) has a flow greater than five percent of the flow carried by the municipal system receiving the waste; (3) has in its wastes a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Clean Water Act; or (4) has a significant impact, either singly or in combination with other contributing industries, on a publicly owned treatment works or on the quality of effluent from that treatment works.

**Maximum Day** (maximum daily discharge limitation) - The highest allowable "daily discharge" (mg/l, lbs or gallons).

**Mean** - The mean value is the arithmetic mean.

**Monthly Average** - (Average monthly discharge limitation) - The highest allowable average of daily discharges (mg/l, lbs or gallons) over a calendar month, calculated as the sum of all daily discharges (mg/l, lbs or gallons) measured during a calendar month divided by the number of daily discharges measured during that month.

**NPDES** - The National Pollutant Discharge Elimination System.

**Secretary** - The Secretary of the Agency of Natural Resources

**State Certifying Agency**

Agency of Natural Resources  
Department of Environmental Conservation  
Wastewater Management Division  
103 South Main Street  
Waterbury, Vermont 05671-0405

**Weekly Average** - (Average weekly discharge limitation) - The highest allowable average of daily discharges (mg/l, lbs or gallons) over a calendar week, calculated as the sum of all daily discharges (mg/l, lbs or gallons) measured during a calendar week divided by the number of daily discharges measured during that week.

07/2000; u. 8/2003