

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

GENERAL PERMIT 3-9001 (2003)
FOR STORMWATER RUNOFF FROM LARGE CONSTRUCTION SITES

PART I. COVERAGE UNDER THIS PERMIT

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 §§1259, 1263, and 1264; the Vermont Water Pollution Control Rules, Chapter 13, including the general permit rules in Section 13.12; the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., including 33 USC 1342(p); and the regulations of the federal Environmental Protection Agency including 40 CFR 122.26 and 40 CFR 122.28.

A. Discharges Covered

This permit covers the discharge of stormwater runoff from sites with construction activity, including clearing, grading and excavation, that will result in the disturbance of five or more acres of total land area. This coverage includes construction activities where the disturbance is less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately result in the disturbance of a five or more acres ("phased projects").

B. Area Covered

This permit covers the discharge of stormwater runoff from construction sites to all Class B waters within the State of Vermont, with the exception of Class B waters listed under Part I(C)(3) below.

C. Discharges Not Covered

The following discharges are not covered by this permit:

1. Non-stormwater discharges, except discharges from excavation dewatering may be authorized under this permit;
2. Stormwater runoff not associated with construction activities;

3. Stormwater runoff from construction sites to:
 - a. Class A waters¹,
 - b. Outstanding Resource Waters, and
 - c. Class One wetlands
4. Any discharge from a federally owned facility²;
5. Stormwater runoff from landfills and mining areas, including gravel pits;
6. Stormwater runoff from construction sites where the discharge will cause, or have reasonable potential to cause or contribute to, a violation of water quality standards or constitute a significant contributor of pollution as defined in the General Permit Rules;
7. Stormwater runoff from construction sites where the discharge or the construction of stormwater abatement measures is likely to jeopardize the continued existence of any State or federally listed threatened or endangered species or result in the destruction or adverse modification of critical habitat, unless a takings permit has been issued by the relevant authority;
8. Stormwater runoff to waters impaired by pollutants associated with construction runoff where the activity results in a land disturbance within 50 feet of the top of bank of surface waters, including wetlands³, except where necessary for the reconstruction of existing roads and the construction of bridges, stream crossings, minor shorelines access ways, and components of stormwater management systems which by necessity must be located in this zone⁴. Exceptions also include activities that have been permitted with a setback of less than 50 feet from the top of bank under 10 V.S.A. Chapter 151 ("Act 250"), under the Vermont Wetland Rules, and, for Class Three Wetlands, under federal Clean Water Act Section 404. These exceptions only apply insofar as the activity otherwise qualifies.

¹ For individual permitting of ski trails and lift construction in Class A watersheds, design and construction should be planned in accordance with *Guidelines for the Design and Construction of Ski Lifts and Trails in Class A Watersheds in Vermont* (August 15, 2000), or subsequent updates.

² Federal facilities are regulated by the Environmental Protection Agency.

³ For the purpose of this permit, *wetland* is defined by the Vermont Wetland Rules (January 1, 2002) Section 2.29 and shall be delineated in accordance with the techniques identified in Section 2.30. This includes Class One, Class Two, and Class Three wetlands as defined in Section 4.1.

⁴ For measuring setbacks from lakes and ponds where there is no definable top of bank, the edge of mean water level will be used. For wetlands where there is no definable top of bank, the setback shall be measured from the wetland boundary, which shall be delineated for all wetlands using the procedures set forth in the Vermont Wetland Rules.

PART II. APPLICATION REQUIREMENTS

A. Notice of Intent Forms and Fees

The owner of the property subject to the land disturbance shall be considered the applicant or permittee for the purpose of this general permit. The owner shall make application for coverage under this permit by filing a Notice of Intent ("NOI") on a form provided by the Secretary and a copy of the Erosion Prevention and Sediment Control Plan (the "Plan," as described in Part III). The completed NOI shall be filed with the Agency of Natural Resources, together with an administrative processing and application review fee, at the following address:

Vermont Agency of Natural Resources
Department of Environmental Conservation
Division of Water Quality
Building 10 North, 103 South Main Street
Waterbury, Vermont 05671-0408

The application shall be signed by the property owner or the owner's duly authorized agent⁵.

For those projects which have been granted a land use permit under 10 V.S.A. Chapter 151 and for which the application included a complete Erosion Prevention and Sediment Control Plan, the applicant may elect not to file the Plan with the Secretary, but may instead simply make reference to the Act 250 land use permit number and issuance date. The Plan approved under 10 V.S.A. Chapter 151 must at a minimum contain the elements listed in Part III(C) below.

B. Public Notice of NOI

Any person who files a NOI shall at the same time provide a copy of the completed NOI form to the municipal clerk of the municipality in which the discharge is to be located. The Plan shall be made available for public review at the Department's offices during normal business hours.

⁵ The application shall be signed consistent with the Vermont Water Pollution Control Permit Regulations, Chapter 13 (1974):

- 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 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.

C. Public Comments on NOI

For a period of ten (10) days following receipt of a NOI, the Secretary shall provide an opportunity for written comments regarding whether the NOI complies with the terms and conditions of this permit. The Secretary may extend the comment period if additional information is requested pursuant to Part II(E) below. Any interested person should file either comments or a letter of interest with the Secretary during the 10-day notice period. Should the Secretary extend or reopen the comment period, the Secretary will so notify the applicant and those persons who file comments or a letter of interest. The comment period in such case shall be extended until 10 days after the application is deemed complete.

D. Filing Deadlines

The NOI (the completed NOI and the Plan) shall be filed at least thirty (30) days prior to commencement of construction activity.

For the individual phases of a phased project, the NOI must be submitted thirty (30) days prior to commencement of construction on the individual phase.

E. Additional Information

The Secretary may require the applicant to submit additional information that the Secretary considers necessary in order to make a decision on the eligibility for, or the issuance or denial of, an authorization to discharge pursuant to this permit. The Secretary shall deny authorization to discharge pursuant to this permit if the additional information requested is not provided to the Secretary within sixty (60) days of the Secretary's request.

F. Requiring an Individual Permit

The Secretary may require any person who files a NOI to apply for an individual permit if the discharge does not qualify for coverage under this permit or if the Secretary finds that an individual permit is required pursuant to Section 13.12 D of the General Permit Rules.

G. Authorization to Discharge

Any person who files a NOI shall be authorized to commence construction activities and discharge under the terms of this permit upon the receipt of a written determination by the Secretary that the NOI filing is complete and that the discharge is eligible for coverage under the terms and conditions of this general permit.

H. **Failure to Notify**

Dischargers who discharge stormwater runoff from construction sites to waters of the State without first receiving an individual permit or coverage under this general permit are in violation of 10 V.S.A. Chapter 47 and the federal Clean Water Act.

I. **Assignment of Co-Permittee Status to Contractors**

Contractors and subcontractors engaged in project activities which may add pollutants to stormwater runoff must obtain co-permittee status. The property owner shall notify all contractors and subcontractors of this requirement. The contractor and subcontractors shall file a written request for co-permittee status on the Request for Co-Permittee Status Form available from the Department. The form includes the contractor's name, address, business phone number, site telephone number (if one), and a statement that he or she has read and is familiar with the terms of the permit; has reviewed the Plan; and agrees to comply with all the terms and conditions of the permit. Contractors and subcontractors that commence such construction activities without obtaining co-permittee status will be in violation of the state and federal law.

J. **Time Frame for Agency Actions**

Generally within five business days of the end of the initial public notice period, the Secretary will authorize coverage under this general permit, deny eligibility and require an individual permit, or request additional information if the application is deemed incomplete. If the application is deemed incomplete, the public notice period shall extend until 10 days following receipt of a complete application.

PART III. EROSION PREVENTION AND SEDIMENT CONTROL PLAN

A. **Plan Preparation and Plan Implementation**

The applicant shall have the Plan prepared consistent with the provisions below. The Plan shall be signed by the applicant or the applicant's authorized agent and the individual who prepared the Plan. For construction sites discharging to waters impaired by pollutants associated with construction runoff, the Plan shall be prepared by registered professional engineer or a professional in erosion and sediment control, registered by CPESC, Inc. (Certified Professional in Erosion and Sediment Control, Inc.). The applicant shall implement the erosion prevention and sediment control measures contained in the Plan in conjunction with the general clearing, grading and excavation of the site.

B. **Plan Objective**

The objective of the Plan shall be to minimize the erosion of disturbed land and to prevent the discharge of sediment and other construction-related pollutants to waters of the State. The Plan shall be designed to provide, as a minimum, the protection outlined in the *Vermont Handbook for*

Soil Erosion and Sediment Control on Construction Sites (Vermont Geological Survey, 1982, rev. 1987), or any update to that publication (the “Handbook”) and shall be developed using the following principles:

1. Fit the development plan to the site.

The development plan shall be designed to fit the topographic, soil, and vegetative characteristics of the site. Extensive soil disturbance on steep slopes, poorly drained soils, shallow-to-bedrock soils or highly erodible soils shall be avoided. Land disturbance within 50 feet of all waterbodies, measured from the top of bank, and wetlands shall be avoided except where necessary for the reconstruction of existing roads and the construction of bridges, stream crossings, and components of stormwater management systems which by necessity must be located in this zone (e.g., the outfall pipe from a treatment basin). The site topography and soils, the nature of the disturbance, or resource factors may necessitate a greater setback from the waters.

Maintain existing streams and their riparian zones in their natural condition. Consideration shall be given to steps that can be taken to restore and conserve riparian zones, using the *Agency Shoreland and Lakeshore Vegetation Management Procedure* (June 16, 1996), or subsequent procedures or rules, as guidance.

2. Preserve natural drainageways.

The site’s natural drainage characteristics shall be maintained to the extent feasible. Existing natural drainageways that carry stormwater to streams, rivers, lakes, ponds, and wetlands shall be preserved. For the site grading design, due consideration will be given to avoiding increases in the amount of runoff being discharged to individual drainageways and streams, as a result of compaction, unnecessary removal of forest cover, or recontouring the land surface in such a way that there is an increase in the acreage of land contributing stormwater flows.

3. Minimize areas of disturbed soil and unnecessary removal of existing vegetative cover.

Construction activities shall be sequenced so that the areal extent of disturbed soils left open to erosion at any given time is kept to a minimum. The sequencing shall be discussed in the grading plan. Unnecessary soil disturbance shall be avoided. Project phasing shall be used to lessen the areal extent of soils exposed at any given time. Removal of existing, non-invasive vegetative cover shall be limited to that necessary to accomplish the activity.

4. Minimize the duration of soil disturbance.

The sequence of construction activities shall be planned such that disturbed soil can be protected and stabilized as soon as possible. Emphasis shall be placed on prompt (generally within 48 hours) seeding and mulching of disturbed soils. Temporary soil cover, such as

mulch or matting with or without seed, should be employed in areas where the finished grade has not been reached.

5. Project completion date and winter erosion control.

Earthwork shall generally be scheduled for completion and the site stabilized no later than October 15. By the end of the growing season, perennial cover shall be established, and non-vegetative protection measures installed by October 15. To assure a vigorous catch of vegetative cover, seeding and mulching shall be done by September 15.

For those projects which extend past October 15, all measures possible will be taken to limit exposure of soils and to not initiate additional earthworks. In addition, soil disturbance between October 15 and May 1 shall necessitate the inclusion of a special winter erosion prevention and sediment control plan as part of the Plan, addressing the specific concerns of winter construction. For those projects where winter construction would present a significant risk to water quality, suspension of construction until the next construction season shall be required. (See Part V(F))

6. Erosion control by managing stormwater runoff from upslope and managing water on-site.

Off-site stormwater shall be prevented from entering areas of disturbed soil on-site. On the site, water must be controlled and kept to low velocities, so that erosion is minimized. Early construction of permanent stormwater treatment structure(s) shall be considered in order to treat stormwater runoff from the construction site.

7. Sediment on-site and at downslope site limits.

Measures shall be taken to reduce the amount of sediment mobilized from areas of disturbed soils. To control the sediment that is unavoidably mobilized on-site, temporary and permanent erosion and sediment control measures appropriate to the site conditions and soils (reference chapters 4 and 5, and Appendix B of the Handbook) shall be implemented. The off-site discharge of sediment mobilized on the construction site, including off-site tracking of sediment onto paved public or private roadways by construction vehicles, shall be prevented.

C. **Components of the Plan**

The Plan shall include the following components. A checklist is available from the Department for guidance.

1. Location Map: including property lines and nearest off-site streams, ponds and wetlands.
2. Existing Conditions Site Plan: including property lines, topographic contours, drainage, vegetative cover types, streams, ponds, wetlands, structures, riparian buffers, roads, and utilities.

3. Grading Plan: including existing and final topographic contours, limits of proposed soil disturbance, conserved riparian buffers, and schedule for sequencing clearing, grading and construction activities.
4. Erosion Prevention and Sediment Control Site Plan: including location of temporary and final structural erosion prevention and sediment control measures; location(s) and treatments for off-site sediment disposal; sequencing schedule for seeding, mulching and other control measures; and inspection and maintenance schedule. No hay bale dams or silt fences shall be utilized in areas of concentrated flow, such as channels and ditches.

Examples of non-structural measures: minimizing disturbance, preserving existing vegetation, good housekeeping, minimizing exposure time.

Examples of structural measures: erosion control - mulch, seeding/vegetation, covering of stockpiled soils; sediment control - silt fence, inlet protection, check dams, stabilized construction entrance, sediment traps.

5. Narrative: a narrative briefly describing the strategy for erosion control, covering the four components listed above and including a discussion of predominant soil types, a description of all temporary and final structural erosion prevention and sediment control measures, the seeding and mulching plan, and any design calculations for temporary and permanent structural control measures.
6. Water Quality Monitoring: For projects discharging directly to waters impaired by sediment, the Plan shall include event-based monitoring of the turbidity in the receiving stream, above and below the discharge, and the turbidity of the discharge from detention basins, if any.

D. On-Site Plan Coordinator

The applicant shall designate a person or persons who are directly responsible for on-site implementation of the Plan. Such person or persons shall have the authority to stop or modify construction activities as necessary to comply with the Plan and the terms and conditions of this permit and shall be responsible for inspections and record keeping. The On-Site Plan Coordinator shall generally be on site on a daily basis during active construction. The name and daytime telephone number of this individual shall be provided on the application or filed in writing before the start of construction if the coordinator has not been selected at the time the NOI is filed. The Plan shall indicate how frequently the On-Site Plan Coordinator will be on site to oversee Plan implementation and to monitor effectiveness.

E. Plan Availability

The permittee shall provide a copy of the Plan to the On-Site Plan Coordinator and all contractors responsible for construction activities that involve soil disturbance. A copy of the Plan shall be

kept on site at all times and shall be made available to the Secretary or his/her designated representative upon request.

F. **Plan Amendment**

The permittee shall amend the Plan prior to implementing any change in the design, construction, operation or other procedure which would significantly increase the risk of erosion and the discharge of sediment to waters of the State or if the Plan proves to be ineffective in preventing erosion and controlling the discharge of sediment or does not meet the minimum requirements of this permit. Changes in the project schedule that significantly increase the length of exposure of soils; that shift earthworks into the winter season; or that reduce the isolation distance between disturbance areas and State waters are included in this category. The amended portions of the Plan shall be filed with the Agency along with an explanation of the reasons for the changes. If borrow or spoil areas are to be used and were not included in the original plan, plan amendment is required before use of such areas; this applies even if the areas are off site, except for borrow areas that are operating under a 10 V.S.A. Chapter 151 ("Act 250") permit. The Agency will make a determination as to whether authorization under this general permit is still appropriate or if instead an individual permit will be necessary pursuant to Part II(F). The requirement to file the amended plan is not intended to delay the implementation of reasonable and effective steps to control erosion due to unforeseen circumstances, where inaction would significantly degrade water quality.

PART IV. PROHIBITIONS

The discharge of stormwater from construction activities shall not cause, or have reasonable potential to cause or contribute to, a violation of water quality standards or constitute a significant contributor of pollution as defined in the General Permit Rules, nor shall it adversely affect threatened or endangered species.

The failure to promptly abate the discharge of sediment or any other waste which causes a visible discoloration of surface waters (including wetlands), or is found to be exceeding water quality standards based on monitoring, is prohibited.

Discharges of any material other than stormwater, such as vehicle and equipment maintenance spills, fuels, wash water, construction debris, oil, wet concrete (including washout water from concrete batch trucks or equipment used to mix concrete), and other substances, are prohibited by this permit.

PART V. OPERATION AND MANAGEMENT

A. **Operation and Maintenance of Control Structures**

The permittee shall at all times properly operate and maintain all stormwater treatment, erosion prevention and sediment control structures which are installed or used to achieve compliance with this permit. All temporary measures shall be removed upon project completion or site stabilization, whichever occurs last.

B. **Proper Disposal of Sediment**

Sediments and other pollutants collected and removed in the course of treatment of stormwater runoff shall be disposed of in a manner that will not result in the sediments and pollutants entering waters of the State. Generally, it is expected that disposal sites shall be selected on relatively level terrain with an isolation distance of at least 100 feet from any surface waters, including wetlands. The disposal of sediment in a wetland or any corrective action undertaken to remove sediment from a wetland is not authorized by this permit. Any such activity may require a conditional use determination pursuant to 10 V.S.A. Section 905 (b) or a permit pursuant to Section 404 of the federal Clean Water Act, or both.

C. **Posting of Notice at Construction Site**

The permittee shall post at a location visible to the public a notice containing the NOI number, the text: "Vermont Department of Environmental Conservation ((802) 241-3770) has authorized the discharge of stormwater runoff from this construction site under General Permit 3-9001(2003).", the name and telephone number of the permittee's local contact person, the location where a copy of the Erosion Prevention and Sediment Control Plan is available, and a brief description of the project. The Department may provide a standardized form for this purpose. Generally, the notice shall be placed near the construction entrance unless there is a safety concern. This permit does not, however, provide the public with any rights to trespass on the construction site for any reason, including site inspection, nor does it obligate the permittee to allow members of the public to access the site.

D. **Frequency of Inspection**

All erosion prevention and sediment control structures and measures shall be inspected by or under the direction of the On-Site Plan Coordinator at least once every seven (7) calendar days and as soon as possible but no later than 24 hours after any storm event which generates a discharge of stormwater runoff from the construction site. For projects discharging to waters impaired by pollutants associated with construction runoff, a registered professional engineer or a professional in erosion and sediment control, registered by CPESC, Inc., shall inspect the site at least once every 14 days. If there is no earthwork performed during the period December 15 through March 15 and all exposed soils and drainage channels have been at least temporarily protected, inspections may be suspended during that period, but the final inspection record for the season shall clearly show the status of site grading and stabilization efforts at the end of the construction season.

E. **Corrective Action**

Any evidence of measurable amounts of sediment or sediment laden water leaving the construction site or any visible discoloration of surface waters (including wetlands) shall be noted and immediate action taken to correct the discharge, including halting or reducing construction activities as necessary until the discharge and/or the condition is fully corrected. In the event that a discharge authorized under this permit is causing, or has reasonable potential to cause or contribute to, a violation of water quality standards, the Department shall be notified immediately of the problem and the corrective actions that have been or are being taken. A written report fully describing the violation, including the source, the cause, why the Plan did not prevent the problem, how the problem was addressed, and the timetable, shall be filed within seven (7) days of when the problem is first identified.

F. **Record Keeping**

The On-Site Plan Coordinator shall keep a written record of inspections and any water quality monitoring data and shall note all problem areas and the measures taken to correct those problems and prevent future problems. The records shall reflect the status of the project in terms of consistency with the planned construction sequence and what areas are disturbed at the time of the inspection and what areas have been temporarily or permanently stabilized since the last inspection record. Each inspection record shall be signed by the On-Site Plan Coordinator. For construction sites where inspections are also being made by a registered professional engineer or a professional in erosion and sediment control, inspection reports shall be done by that individual and incorporated in the records. The inspection records shall be kept on site and shall be made available on-site or via mail to the Secretary or his/her designated representative on request. The permittee shall retain a copy of the Plan and any records required by this permit for a minimum of three (3) years following completion of construction activities. This period shall be extended during the course of unresolved litigation regarding violations of this permit.

G. **Late Fall/Winter Construction Activities**

For site work extending beyond October 15 and exclusively consisting of site stabilization and minor activities that do not involve new areas of earth disturbance, the permittee shall notify the Secretary prior to September 15 of those planned activities. For site work between October 15 and May 1 and involving new areas of earth disturbance, a special winter erosion prevention and sediment control plan shall be filed with the Secretary prior to September 15 and approved by the Secretary; this only applies if these late fall/winter construction activities were not already planned for and addressed in the Plan. All measures possible will be taken to limit the exposure of soils during all late fall and winter construction activities. The Secretary reserves the right to either require an individual permit for construction extending into this time period or may require suspension of construction activities until the next construction season if winter construction is determined to present a significant risk to water quality.

PART VI. STANDARD CONDITIONS

A. **Duty to Comply**

The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of 10 V.S.A. Chapter 47 and the federal Clean Water Act and is grounds for an enforcement action, or suspension or revocation of the permittee's authorization to discharge under this permit.

B. **Duty to Reapply**

If a discharge from the construction site is anticipated to continue after the expiration date of this permit, the permittee must reapply for coverage under a new permit thirty (30) days prior to the expiration date of this permit.

C. **Continuation of the Expired General Permit**

Provided the permittee has reapplied in accordance with Section VI(B) of this permit, the expired permit continues in force and effect until a new general permit is issued. Only those facilities previously authorized to discharge under the expired permit are covered by the continued permit.

D. **Termination of Coverage**

Coverage under this permit is terminated upon the completion of each of the following:

1. All land disturbing activities on the site,
2. Permanent stabilization of all disturbed areas on the site through the establishment of a vigorous vegetative cover, the implementation of other approved stabilization measures, and the graveling or paving of parking areas, and
3. The permittee's filing of the attached Notice of Termination, signed by the permittee or the permittee's authorized agent, with the Secretary.

E. **Transfer of Authorization to Discharge**

Any permittee may transfer the authorization to discharge by submitting a notice of transfer to the Secretary. The notice shall be submitted thirty (30) days prior to the proposed date of transfer and shall include the following:

1. the name and address of the present permittee;
2. the name and address of the prospective permittee;
3. the name and daytime telephone number of the On-Site Plan Coordinator, if different;

4. the proposed date of transfer; and
5. a statement signed by the prospective permittee, stating that:
 - a. the conditions of the facility operation that contribute to, or affect, the discharge will not be materially different under the new ownership;
 - b. the prospective permittee has read and is familiar with the terms of the permit and agrees to comply with all the terms and conditions of the permit, and;
 - c. the prospective permittee has adequate funding or other means to effect compliance with all the terms of the permit.

F. Modification of General Permit

After notice and opportunity for public hearing this permit may be modified in accord with General Permit Rules Section 13.12 C.7.

G. Right of Entry

The permittee shall allow the Secretary or his or her authorized representatives, upon presentation of credentials to:

1. Enter upon the permittee's premises where a discharge is located or in which any records are required to be kept under the terms and conditions of this permit; and
2. At any time inspect the site and sample any discharge, and at reasonable times have access to and copy any records required to be kept under the terms and conditions of this permit.

H. Limitations

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.

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

This permit does not convey authorization to conduct any activity within wetlands including but not limited to: clearing, grading, excavation, placement of temporary or permanent erosion and sediment control structures, or any other activity required by this permit. Any such activity within

a wetland may require a conditional use determination pursuant 10 V.S.A. Section 905(b) and/or a permit pursuant to Section 404 of the federal Clean Water Act or both.

I. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for the 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.

J. 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. Section 1281.

K. Penalty for Permit Violation

10 V.S.A., Section 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.

10 V.S.A. Section 8010(c) provides that:

A penalty of not more than \$25,000.00 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 \$10,000.00 for each day the violation continues. The maximum amount of penalty assessed under this subsection such not exceed \$100,000.00.

L. Penalty for False Statement

10 V.S.A. Section 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.

PART VII. APPEALS

This permit may be appealed to the Water Resources Board within 30 days of the effective date as provided for in 10 V.S.A. §§1263(b) and 1269.

PART VIII. REVOCATION OF PERMIT

The Secretary reserves the right to revoke authorization to discharge under this general permit in accordance with General Permit Rules, Section 13.12 C.6. The Secretary may require a permittee authorized by this general permit to apply for an individual discharge permit in accordance with General Permit Rules, Section 13.12 D.

This permit shall become effective upon signing and shall expire five years from the date of this approval.

Signed this 17th day of April, 2003

Jeffrey N. Wennberg, Commissioner
Department of Environmental Conservation

By Wallace McLean
Wallace McLean, Director
Division of Water Quality