

## Three-Acre Stormwater Permit Requirement

### General

- 10 V.S.A. § 1264 establishes the stormwater permitting requirements in the State.
- § 1264 includes requirements that ANR issue several different types of stormwater permits.
  - Some of the permits are federally required--construction, MS4, and multi-sector permits.
  - The remaining permit requirements are State-required operational stormwater permits.
- Act 64 of 2015 rewrote § 1264 in its entirety to:
  - improve clarity and structure of the section; and
  - establish additional State stormwater permit authority necessary to provide U.S. EPA with satisfactory State commitments under the Lake Champlain TMDL Implementation Plan for addressing stormwater runoff from roads and developed lands.<sup>1</sup>
- A TMDL that relies on reductions in nonpoint source loading must provide “reasonable assurances” that the necessary nonpoint source reductions will actually occur.
  - The three-acre stormwater permit and the municipal roads permit enacted under Act 64 provide, in part, reasonable assurances.

### Three-Acre Permit Requirements—10 V.S.A. § 1263(g)(3)

- On or before January 1, 2018, ANR shall issue a general permit for discharges of stormwater from impervious surface of three or more acres in size, when:
  - the stormwater discharge previously was not permitted; or
  - was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.
- Under the general permit, ANR shall establish a schedule for implementation of the general permit by geographic area of the State.
  - The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under the permit.
  - The schedule established by the Secretary shall require an owner of impervious surface subject to permitting to obtain coverage by the following dates:
    - \* for impervious surface in the Lake Champlain watershed, no later than October 1, 2023.
    - \* for impervious surface in all other watersheds, no later than October 1, 2028.
- ANR is also required to establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface that is subject to the three-acre permit requirements.

---

<sup>1</sup> See State of Vermont, Vermont Lake Champlain Phosphorus TMDL Phase 1 Implementation Plan, p. 53 (Added Commitments To Address Stormwater Runoff From State Roads And Non-Roads), available at <http://dec.vermont.gov/sites/dec/files/wsm/erp/docs/2016%20Draft%20Phase%201%20Implementation%20Plan.pdf>

## **Definitions Relevant to Stormwater Permitting—10 V.S.A. § 1264(b)**

“Best management practice” (BMP) means a schedule of activities, prohibitions or practices, maintenance procedures, green infrastructure, and other management practices to prevent or reduce water pollution.

“Development” means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.

“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.

“New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter that has not been previously authorized pursuant to this chapter.

“Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

“Stormwater-impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.

“Stormwater Management Manual” means ANRs' Stormwater Management Manual, as adopted and amended by rule.

“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.

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