

AMENDMENT TO THE VERMONT WATER POLLUTION CONTROL REGULATIONS,
CHAPTER 13

The following section is added to read:

Rule 13.12

GENERAL PERMIT RULES

A. Definitions

As used in these regulations the following terms shall have the meanings indicated below unless a different meaning clearly appears from the context.

1. The term “Department” means the Department of Environmental Conservation 10 V.S.A. §905 (a).
2. The term “general permit” means a permit issued under 10 V.S.A., §1263 authorizing a class of discharges with in a common geographic area, including state-wide, that share the same or substantially similar qualities such that discharges can be regulated by the same or similar permit conditions.
3. The term “individual permit” means a discharge permit issued under 10 V.S.A., §1263 that authorizes a specific discharge and contains terms and conditions that are specific to the discharge.
4. The term “non-contact cooling water” means water used to reduce temperature that does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Ground water that contains toxic or hazardous pollutants shall be excluded from use under this definition. Steam electric generating plants, as a category, are excluded from use under this definition.
5. The term “non-polluting wastes” means those wastes that prior to treatment do not have the potential to result in an undue adverse effect on any existing use, beneficial value or use, or the quality of the receiving water.
6. The term “Secretary” means the Secretary of the Agency of Natural Resources or his authorized representative, 10 V.S.A. §1251(11).
7. The term “stormwater runoff” means natural precipitation that does not infiltrate into the soil, including any material dissolved or suspended in such water. Stormwater runoff does not include wastes from combined sewer overflows.

B. Applicability of General Permits

The Secretary may issue a general permit in accordance with the following:

1. Area - The general permit shall be written to cover a category of discharges described in 13.12 B(2) of these rules within any existing geographic area, including the entire state, for the purpose of carrying out these rules and to achieve the goals and purpose of Title 10 V.S.A.
2. Sources - General permits may be written to regulate within an existing geographic area the following discharges:
 - (a) stormwater runoff or
 - (b) any category of discharges other than stormwater runoff, including non contact cooling water, non polluting waster, or any category of discharges which are adequately regulated by another permit, license or certificate issued under the authority of state or federal statute or regulation, provided the discharges all:
 - i. involve the same or substantially similar types of operations;
 - ii. discharge the same types of wastes;
 - iii. require the same effluent limitations or operating conditions;
 - iv. require the same or similar monitoring, and;
 - v. in the opinion of the Secretary are more appropriately controlled under a general permit than under individual permits.

C. Administration

1. Draft General Permits - The Secretary shall prepare a draft general permit in accordance with the provisions of 13.12 B., F. and G. of these rules. The Secretary shall provide notice of the draft general permit and the opportunity for a public hearing in accord with section 13.3c.-i. of these rules.
2. Requirements for filing - Any person wishing to discharge wastes subject to a general permit shall file a notice on forms provided by the Secretary. Upon the request of the Secretary any person who files a notice shall submit such additional information that may be necessary to enable the Secretary to authorize the discharge under the terms of a general permit. Each notice shall be accompanied by a fee as specified by the Secretary and established by law.

3. Authorization to Discharge - Upon issuance of the general permit, any person wishing to discharge wastes subject to the general permit shall be authorized to do so upon a determination by the Secretary that;
 - (a) the filings as required in section 13.C.2. of these rules are complete, and;
 - (b) the discharge is eligible for coverage under the terms and conditions of the general permit.

4. 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 30 days prior to the proposed date of transfer and shall include the following:
 - (a) the name and address of the present permittee
 - (b) the name and address of the prospective permittee
 - (c) the proposed date of transfer
 - (d) a statement signed by the prospective permittee, stating that:
 - i. The conditions of the facility operation that contribute to, or affect, the discharge will not be materially different under the new ownership;
 - ii. he/she 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;
 - iii. he/she has adequate funding or other means to effect compliance with all the terms of the permit.

5. Changes to a Permitted facility - The permittee shall notify the Secretary of any planned facility expansions or changes that result in new or increased discharges of pollutants. The Secretary may require the permittee to submit additional information on the proposed changes. The Secretary shall determine the appropriateness of continued inclusion under the general permit by the modified facility.

6. Revocation of Authorization to Discharge - The Secretary may, after notice and opportunity for public hearing under 3 V.S.A. §814 revoke or suspend, in whole

or in part, authorization to discharge under a general permit for cause, including but not limited to:

- (a) Violation of any terms or conditions of the general permit;
- (b) Obtaining a general permit by misrepresentation or failure to disclose fully all relevant facts;
- (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; and,
- (d) Correction of violations of Vermont Water Quality Standards.

7. Modification of General Permits - After notice and opportunity for a public hearing pursuant to Section 13.3(c)-(i) of these rules the Secretary may modify a general permit for cause including but not limited to the following:

- (a) The statutes or rules on which the general permit are based have been changed or,
- (b) There is a change in any condition that requires redrafting or alteration of the boundaries of a designated geographic area or,
- (c) The Secretary has received new information, not available at the time of the permit issuance, which indicates that the cumulative effects violate the Vermont Quality Standards or,
- (d) When required by the “reopener” conditions in a general permit or,
- (e) To correct technical mistakes, such as errors in calculations or mistaken interpretations of law made in determining permit conditions.

D. Requiring an Individual Permit

1. The Secretary may require any permittee authorized by a general permit to apply for an individual discharge permit. Any interested person may petition the Secretary to take action under this paragraph. Cases where an individual permit may be required include the following:

- (a) The discharge(s) is a significant contributor of pollution as determined by the following factors:
 - i. The location of the discharge with respect to waters of the State of Vermont;

- ii. the size of the discharge;
 - iii. the quantity and nature of the pollutants reaching waters of the State of Vermont and the impacts of the pollutants on the receiving water and;
 - iv. other relevant factors
- (b) The discharger is not in compliance with the terms and conditions of the general permit or does not qualify for a general permit.
 - (c) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes applicable to the discharge.
 - (d) Federal effluent limitation guidelines are promulgated for discharges covered by the general permit.
 - (e) If necessary to implement a waste management strategy contained in any applicable basin plan.
2. If the secretary finds that a permittee authorized by a general permit is required to apply for and individual permit the Secretary shall so notify the permittee. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the permittee to file the application, and a statement that on the effective date of the individual permit the general permit as it applied to the individual permittee shall automatically terminate. The Secretary may grant additional time upon request of the applicant.
 3. When an individual permit is issued to a person otherwise subject to a general permit, the applicability of the general permit to the individual permittee is automatically terminated on the effective date of the individual permit.
 4. Any permittee authorized by a general permit may request to be excluded from the coverage of the general permit provided the permittee submits information supporting the request. If the Secretary finds that the terms and conditions of the general permit do not apply to the discharge, or that the discharge is more appropriately covered by an individual permit the Secretary shall grant the request and shall so notify the permittee in writing of his/her decision. Upon receipt of such notification, the permittee shall submit to the Secretary an application for an individual permit. The application shall be processed under 13.1 - 13.10 of these regulations. The applicability of the general permit is not terminated until the effective date of the individual permit.

E. Requiring a General Permit

1. The secretary may require any person applying for reissuance of an individual permit to be subject to a general permit provided the Secretary finds the discharge complies with all conditions of the general permit and the discharge is more appropriately covered under the general permit.
2. Any permittee subject to an individual permit and wishing to discharge wastes subject to a general permit may file a notice on forms provided by the Secretary. Upon the request of the Secretary, any person who files a notice shall submit such additional information that may be necessary to enable the Secretary to authorize the discharge under the terms of a general permit. Each notice shall be accompanied by a fee as specified by the Secretary and established by law.
3. Any permittee subject to an individual permit shall be authorized to discharge under the terms of a general permit upon:
 - (a) issuance of a notice by the Secretary authorizing the discharge under the terms of a general permit and;
 - (b) expiration of the individual permit under which the permittee was previously authorized to discharge.

F. General Conditions Applicable to All General Permits

1. The following terms, conditions, requirements, limitations and restrictions set forth in this part are binding upon the permittee. All conditions for general permits are enforceable under Title 10 V.S.A. Chapter 47.
2. The Secretary shall issue a general permit containing terms and conditions necessary to carry out the purposes of the Vermont Water Pollution Control Act, 10 V.S.A., Chapter 47, and the Clean Water Act as amended, including these set forth in the Sections 13.4, 13.5a and 13.6 of these rules. Those terms and conditions may include but shall not be limited to providing for specific effluent limitations and levels of treatment technology, monitoring, recording, reporting standards and may contain additional conditions and requirements as the Secretary deems necessary to preserve and protect the quality of the receiving waters.
3. Violation - A general permit is valid only for the time and specific activity indicated. Any deviation from the specified activity and conditions for undertaking that activity or submission of false, incomplete or inaccurate information shall constitute a violation of the permit. A violation of the permit may result in modification, suspension or revocation of the permittee's authorization to discharge under the general permit and may result in the

institution of legal proceedings pursuant to Title 10 V.S.A. Chapter 47 §1275 and title 10 V.S.A. Chapter 201 and 21.

4. Rights and Privileges - The general permit conveys no vested rights or exclusive privileges. The general permit conveys no title to land nor authorizes any injury to public or private property. The general permit does not authorize infringement of any applicable federal, state or local laws or regulations nor obviate the necessity of obtaining such additional permits as may be required.
 5. Right of Entry - The permittee shall allow an authorized representative of the Department access to the permitted facility at reasonable times for the purpose of inspection and testing to determine compliance with the general permit pursuant to Title 10 V.S.A. Chapter 37 §911.
 6. Duty to Operate and Maintain - The permittee shall properly operate and maintain any permitted facility in good condition. The condition of the permitted facility shall at no time contribute to a violation of the terms, conditions, requirements, limitations and restrictions specified by the general permit.
- G. Conditions Applicable to General Permits for Stormwater Discharges Notwithstanding Section 13.5a of these rules, in the case of general permits for discharges of stormwater that are not regulated under the Federal Clean Water Act, as amended, the Secretary may specify the period of time for which the general permit is valid other than five years where such time is consistent with the goals and purposes of Title 10 V.S.A. §1264.