

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

GENERAL PERMIT 3-9004
DISCHARGES FROM PETROLEUM RELATED REMEDIATION ACTIVITIES

PART I. COVERAGE UNDER THIS PERMIT

A. **Discharges Covered**

This permit covers discharges from petroleum related remediation activities to all Class B waters within the State of Vermont, including all waters of the United States (including wetlands) within the State of Vermont to the extent provided by Section 29A-101 of the Vermont Water Quality Standards, with the exception of Outstanding Resource Waters and Class One Wetlands. Petroleum related remediation activities include, but are not limited to, the discharge of one or more of the following: ground and/or surface water from remediation systems; ground and/or surface water accumulating as a result of excavation activity; ground and/or surface water contaminated by spills; ground water resulting from pumping and/or monitoring aquifer(s). All of the previously mentioned discharges result from corrective actions involving above ground or underground storage tanks used to store gasoline, diesel fuel, kerosene, jet fuel, or heating oil, or the transportation of these fuels.

B. **Discharges Not Covered**

The following discharges from petroleum related remediation activities are not covered by this permit:

1. Discharges from federally owned facilities.
2. Discharges to groundwater.
3. Discharges to Class A Waters.
4. Discharges to Outstanding Resource Waters and Class One Wetlands.
5. Discharges from petroleum related remediation activities that are mixed with or contaminated by any other wastes or discharges.

C. **Authorization**

Any person who wishes to obtain authorization to discharge from petroleum related remediation activities under this general permit shall follow the application requirements in Part II.

PART II. APPLICATION REQUIREMENTS

A. **Notice of Intent Forms and Fee**

Application for coverage under this permit shall be made by filing a Notice of Intent (NOI) on forms provided by the Secretary. The completed and signed NOI shall be filed with the Agency of Natural Resources, together with an administrative fee (\$240.00 as of 8/1/22; fees are established by 3 V.S.A. § 2822 and may be changed by statute revisions) at the following address:

Agency of Natural Resources
Department of Environmental Conservation
Watershed Management Division
One National Life Drive, Davis Building, 3rd Floor
Montpelier, VT 05620-3522

B. **Public Notice of NOI**

Any person who files a NOI shall provide notice, on a form provided by the Secretary, to the municipal clerk of the municipality in which the discharge is located at the time the NOI is filed with the Secretary.

C. **Public Comments on NOI**

Per 10 V.S.A. §§ 1263(b) and 7715, the Secretary shall provide an opportunity for written comment regarding whether the NOI complies with the terms and conditions of this permit for 14 days following the receipt of the NOI.

D. **Additional Information**

Within sixty days following a request of the Secretary, any person who files a NOI shall submit such additional information that may be necessary to enable the Secretary to authorize the discharge under the terms of this permit.

E. **Requiring An Individual Permit**

The Secretary may require any person who files a NOI to apply for an individual permit if:

1. the maximum daily design flow exceeds 50,000 gpd or the proposed discharge is to a receiving water with a watershed area less than 1.0 square miles at the point of discharge; or
2. the discharge does not qualify for coverage under this permit; or
3. the Secretary finds that an individual permit is required pursuant to 13.12.D. of the General Permit Rules.

F. **Coverage under Existing Individual Permits**

Persons who are authorized to discharge from petroleum related remediation activities by an existing individual permit are not required to obtain coverage under this permit during the term of the individual permit.

G. **Authorization to Discharge**

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

H. **Failure to Notify**

Dischargers who fail to notify the Secretary of their intent to be covered under this permit or fail to obtain authorization to discharge under an individual permit, and who discharge to waters of the State without a permit, are in violation of 10 V.S.A. Chapter 47 and the federal Clean Water Act.

PART III. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Effluent Limitations and Monitoring Frequency

During the period beginning on October 1, 2022, through September 30, 2027, the permittee is authorized to discharge from each discharge point specified on the NOI – Treated contaminated water - in accordance with the following limitations and monitoring requirements.

Effluent Characteristic	Discharge Limitations		Monitoring Requirements ^(1,2)	
	Daily Maximum	Monthly Average	Monitoring Frequency	Sample Type
Flow	See ⁽³⁾ Below	N/A	1 x daily	Measured Total ⁽⁴⁾
Benzene ^(5,6)		2.1 ppb	2 x monthly	Grab
Total BTEX ^(5,6)		50 ppb	2 x monthly	Grab
Total Petroleum Hydrocarbons (TPH) ^(5,6,7)		1000 ppb	2 x monthly	Grab
Lead		30 ppb	2 x monthly	Grab
Methyl tert-butyl ether (MTBE) ⁽⁶⁾		Monitor only	2 x monthly	Grab
(1,2,4), (1,3,5), (1,2,3) Trimethylbenzenes		Monitor only	2 x monthly	Grab
Naphthalene		Monitor only	2 x monthly	Grab

⁽¹⁾ Discharges lasting less than two weeks in duration shall be sampled a minimum of two times (twice) for those parameters listed in the table above.

⁽²⁾ Where there are multiple discharge points, monitoring for the above parameters is required for each discharge point.

⁽³⁾ The flow discharged shall not exceed the design capability of the treatment system. Discharge flow shall be measured after treatment using a continuous measurement flow meter (i.e., a device that records the instantaneous gallons per minute (GPM) and total gallons discharged). If an operator demonstrates that use of a meter is infeasible and such a change is approved by the Secretary in writing, discharge flow shall be based on an estimate. An estimate of discharge flow shall be determined by the operation time and design flow of the treatment system in use at a site, or the flow rate and dimensions of the outfall at a site.

⁽⁴⁾ In days with no discharge, the permittee shall report 0.

⁽⁵⁾ If sample results indicate that the effluent does not meet the specified limitations an additional effluent sample shall be taken within 7 days of receiving the sample results and analyzed for Benzene and Total BTEX as well as TPH, if applicable. See also Part III.C.4.

⁽⁶⁾ Total BTEX shall be measured as the sum of benzene, ethylbenzene, toluene, and xylenes. EPA method 8021B

or other EPA approved methodology shall be used for the measurements of benzene, ethylbenzene, toluene, and xylenes, including ortho-, meta-, and para-xylene. Modified EPA method 8015 or other EPA approved methodology shall be used to measure TPH. EPA method 8021B or other EPA approved methodology shall be used to measure MTBE.

⁽⁷⁾ TPH monitoring is required if the source is diesel, heating oil, kerosene, and/or jet fuel.

B. Influent Monitoring

1. The permittee shall monitor the influent to the treatment system for the parameters listed in Condition III.A. above at a minimum frequency of once per month.
2. For discharges lasting less than two weeks in duration, the permittee shall monitor the influent to the treatment system for the parameters listed in Condition III.A. above a minimum of one time.

C. Special Conditions

1. Effluent samples shall be taken after final treatment and prior to discharge to waters of the State and prior to mixing with other discharges.
2. If the permittee employs carbon adsorption canisters, either as part or all of the treatment system necessary to meet the effluent limitations specified in Part III.A. above, the permittee shall replace the first carbon adsorption canister prior to breakthrough of dissolved hydrocarbons. The time of breakthrough shall be calculated based on flow data developed from pump tests and analysis of untreated contaminated groundwater. The calculated breakthrough time shall be utilized as a schedule for replacing and rotating the carbon adsorption units unless ongoing analyses demonstrate that a different breakthrough time interval is appropriate in order to meet the effluent limitations specified in Part III.A. above. The dates of carbon canister replacement shall be reported on form WR-43.
3. If the permittee employs air strippers, either as part or all of the treatment system necessary to meet the effluent limitations specified in Part III.A. above, the permittee shall clean the air strippers on a regular basis as appropriate and report the dates of the cleaning(s) on form WR-43.
4. Should this discharge exceed the effluent limitations specified in Part III.A. above at any time, then permittee shall:
 - a. Notify the Watershed Management Division within 24 hours at anr.wsmd@state.vt.us;
 - b. Submit a written report within 5 days consistent with Section IV.B. detailing the reason(s) for the violation and the procedures to be employed so that the discharge will once again be in compliance with the effluent limitations; and
 - c. The Watershed Management Division will evaluate the situation on a case-by-case basis and may require the permittee to cease discharging until such time as treatment has been restored to a level that will consistently meet the effluent limitations.
5. The discharge shall not cause erosion or contain sediment which causes or contributes to a violation of water quality standards of the receiving water.

6. The discharge shall not contain a visible sheen, foam, or floating solids at any time.
7. The discharge shall not cause a visible discoloration of the receiving water.
8. The discharge shall not cause or contribute to a violation of water quality standards of the receiving water.
9. This permit does not authorize the discharge of water treatment additives without approval from the Agency. Water treatment additives include any material that is added to water used at the facility or to wastewater generated by the facility to condition or treat the water. In the event a permittee proposes to utilize water treatment additives, the permittee shall submit to the Agency, for review and written approval, a request, including Material Safety Data Sheets (MSDS), to discharge water treatment additives.

D. Operating Fees

Discharges authorized by this permit are subject to operating fees. The permittee shall submit the operating fees in accordance with the procedures provided by the Secretary.

E. Monitoring and Reporting

1. The Permittee is required to submit monthly reports of monitoring results and operational parameters on Discharge Monitoring Report (DMR) form WR-43 or through an electronic reporting system made available by the Secretary. Reports are due on the 15th day of each month, beginning with the month following the effective date of this permit.
2. Unless waived by the Secretary, the Permittee shall electronically submit its DMRs via Vermont's on-line electronic reporting system. The Permittee shall electronically submit additional compliance monitoring data and reports specified by the Secretary. When the Permittee submits DMRs using an electronic system designated by the Secretary, which requires attachment of scanned DMRs in PDF format, it is not required to submit hard copies of DMRs. The electronic submittals are submitted through the State of Vermont Agency of Natural Resources' Online Services Portal, or its replacement.
3. If, in any reporting period, there has been no discharge, the Permittee must submit that information by the report due date.
4. All reports shall be signed :
 - a. For a corporation. By a responsible corporate officer or a duly authorized representative of that person. For the purpose of this section, a responsible corporate officer means: (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (2) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with

- environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- b. For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
 - c. For a municipality, state, or other public agency. By either a principal executive officer or ranking elected official, or a duly authorized representative of that person.
5. For the purposes of subdivision (d) of this subsection, a person is a duly authorized representative only if
- a. The authorization is made in writing by a person described in subdivision (d) of this subsection;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, or an individual or position having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the Secretary.
6. Changes to authorization. If an authorization under subdivision (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subdivision (b) of this subsection must be submitted to the Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.
7. Certification. Any person signing a document under subdivisions (a) or (b) of this subsection shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

F. **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, as specified in the most current revisions of the 40 CFR part 136 unless another method is required under 40 CFR subchapters N or O.

Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity and 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.

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 are conducted.

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

G. Recording of Results

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

1. The exact place, date, and time of sampling;
2. The dates and times the analyses were performed;
3. The person(s) who performed the sampling, measurements, and analyses;
4. The analytical techniques and methods used including sample collection handling and preservation techniques;
5. The results of all such analyses;
6. The records of monitoring activities and results, including all instrumentation and calibration and maintenance records; and
7. The original calculation and data bench sheets of the operator who performed analysis of the influent or effluent pursuant to requirements of Part III.A. of this permit.

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

H. Additional Monitoring by Permittee

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 on the Discharge Monitoring Report form WR-43. Such increased frequency shall also be indicated.

I. Records Retention

Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period shall be extended during the course of any unresolved

litigation regarding the discharge of pollutants by the permittee or when requested by the Secretary or the EPA Region 1 Administrator.

PART IV. 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; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

1. The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act (CWA) for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.
2. The civil and criminal penalties for permit and Clean Water Act violations set forth in 40 CFR § 122.41(a)(2)-(3) are incorporated by reference.
3. As of the effective date of this permit, the Vermont statutory penalties for permit or Clean Water Act violations, which are subject to change, are as follows:
 - a. Pursuant to 10 V.S.A. Chapter 47, a civil penalty not to exceed \$10,000.00 a day for each day of violation.
 - b. Pursuant to 10 V.S.A. Chapter 47, a fine not to exceed \$25,000.00 or imprisonment for 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.
 - c. Pursuant to 10 V.S.A. Chapter 47, 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 by this permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by this permit, 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.
 - d. Pursuant to 10 V.S.A. Chapter 201, a penalty of not more than \$42,500.00 for each determination of a separate violation. In addition, if the Secretary determines that a violation is continuing, the Secretary may assess a penalty of not more than \$17,000.00 for each day the violation continues. The maximum amount of penalty assessed under this provision shall not exceed \$170,000.00.
 - e. Pursuant to 10 V.S.A. Chapter 211, a civil penalty of not more than \$85,000.00 for each violation. In addition, in the case of a continuing violation, a penalty of not more than \$42,500.00 may be imposed for each day the violation continues.

B. Noncompliance Notification

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

1. 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),
2. accidents caused by human error or negligence, or
3. 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:

- a. cause of non-compliance;
- b. a description of the non-complying discharge including its impact upon the receiving water;
- c. 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, including exact dates and times;
- d. steps taken by the permittee to reduce and eliminate the non-complying discharge; and
- e. steps to be taken or planned to reduce, eliminate, and prevent recurrence of the condition of non-compliance.

C. Operation and Maintenance

The permittee shall at all times properly operate and maintain in good working order all facilities and systems of treatment and control (and related appurtenances) installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

D. Reporting requirements.

1. Planned changes. The permittee shall give notice to the Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR § 122.29(b); or
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR § 122.42(a)(1).
 - c. The alteration or addition results in a significant change in the permittee's sludge use or

disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;

2. Anticipated noncompliance. The permittee shall give advance notice to the Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
3. Transfers. This permit is not transferable to any person except after notice to the Secretary pursuant to Section IV.M. The Secretary may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See 40 CFR § 122.61; in some cases, modification or revocation and reissuance is mandatory.)
4. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
 - a. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Secretary for reporting results of monitoring of sludge use or disposal practices.
 - b. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream under 40 CFR subchapters N or O, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Secretary.
 - c. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Secretary in the permit.
5. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
6. Twenty-four hour reporting.
 - a. The permittee shall report any noncompliance in accordance with Section IV.B. (Noncompliance Notification).
 - b. The following shall be included as information which must be reported within 24 hours under this Section IV.D.6.
 - (i) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR § 122.41(g).
 - (ii) Any upset which exceeds any effluent limitation in the permit.
 - (iii) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Secretary in the permit to be reported within 24 hours. (See 40 CFR § 122.44(g).)

- c. The Secretary may waive the written report on a case-by-case basis for reports under Section IV.D.6.b. if the oral report has been received within 24 hours.
7. Other noncompliance. The permittee shall report all instances of noncompliance not reported under Sections IV.D.4., IV.D.5, and IV.D.6., at the time monitoring reports are submitted. The reports shall contain the information listed in Section IV.B.a-e.
8. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Secretary, it shall promptly submit such facts or information.

E. **Signatory requirement.**

1. All applications, reports, or information submitted to the Secretary shall be signed and certified.
2. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

F. **Bypass**

1. Definitions.
 - a. *Bypass* means the intentional diversion of waste streams from any portion of a treatment facility.
 - b. *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections IV.F.3. and IV.F.4.
3. Notice
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Section IV.D.6. (24-hour notice).
4. Prohibition of bypass
 - a. Bypass is prohibited, and the Secretary may take enforcement action against a permittee for

bypass, except where authorized under the terms and conditions of an Emergency Pollution Permit issued pursuant to 10 V.S.A. § 1268.

- b. In addition to § 1268 findings, such bypass must meet the following three conditions:
- i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii. The permittee submitted notices as required under Section IV.F.3.

G. 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 accordance with 10 V.S.A. Chapter 159 and the terms and conditions of any interim or final certification, authorization, or order issued pursuant to 10 V.S.A. Chapter 159 that is in effect at the time of storage, treatment, and disposal.

H. Duty to Mitigate

The Permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The Permittee shall also take all reasonable steps to minimize or prevent any adverse impact to waters of the State, the environment, or human health 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.

I. Duty to Reapply

If a discharge authorized under this permit is anticipated to continue after the expiration date of this permit, the permittee must reapply for coverage under a new permit 30 days prior to the expiration date of this permit.

J. Continuation of the Expired General Permit

Provided the permittee has reapplied in accordance with Section IV.I. of this permit, the permittee's coverage under 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.

K. Requiring a General Permit

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 the conditions of the general permit and the discharge is more appropriately covered under the general permit.

L. **Termination of Coverage**

Upon elimination of a discharge authorized under this permit, the permittee shall submit a **completed and signed 'Request for Termination' form** to the Secretary. Coverage under this permit shall be terminated upon permittee's receipt of the signed termination form from the Secretary confirming that the Request for Termination of Coverage filing is complete.

M. **Transfer of Authorization to Discharge**

Any permittee may transfer the authorization to discharge under this permit by submittal of a **completed and signed 'Transfer of Authorization to Discharge' form** to the Secretary. The notice shall be submitted 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 proposed date of transfer; and
4. 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 terms and conditions of the permit; and
 - c. The prospective permittee has adequate funding to operate and maintain the treatment system and remain in compliance with the terms and conditions of the permit.

N. **Modification of General Permit**

After notice and opportunity for public hearing this permit may be modified in accord with Section 13.12.C.7 (General Permit Rules) of the Vermont Water Pollution Control Permit Regulations.

O. **Modification or Revocation of Authorization to Discharge**

The Secretary may modify, revoke and reissue, or terminate for cause, in whole or in part, authorization to discharge under this permit in accord with Section 13.12.C.6 (General Permit Rules) of the Vermont Water Pollution Control Permit Regulations.

These actions may be taken for the reasons specified in 40 C.F.R. § 122.62 (modification or revocation and reissuance), § 122.64 (termination), or other cause, including:

- a. There are material and substantial alterations or additions to the permitted facility or activity;
- b. New information is received that was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance;
- c. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions;

- d. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- e. Reallocation of WLA under the LC TMDL;
- f. Development of an integrated WWTF and stormwater runoff NPDES permit;
- g. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- h. Correction of any permit violation, including violations of Vermont Water Quality Standards.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

P. Duty to Provide Information.

The permittee shall furnish to the Secretary, within a reasonable time, any information which the Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Secretary upon request, copies of records required to be kept by this permit.

Q. Inspection and Entry

The permittee shall allow the Secretary or an authorized representative (including an authorized contractor acting as a representative of the Secretary), upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

R. Property Rights

Issuance of this permit does not convey any property rights of any sort 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.

S. Federal, State or Local Laws

Issuance of this permit does not authorize any infringement of Federal, State or local laws or

regulations. 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.

This permit does not authorize any discharge or activity which could adversely affect threatened or endangered species protected under the federal Endangered Species Act, which could constitute the taking of threatened or endangered species pursuant to 10 V.S.A. Chapter 123, or which could jeopardize conservations program established by the Secretary under 10 V.S.A. Chapter 123.

T. 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.

U. 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.

V. Penalty for Tampering or Falsification

a. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

b. 10 V.S.A. § 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.”

W. 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 10 V.S.A. § 1263 (Discharge permits), Chapter 13 (Amended - General Permit Rules) of the Environmental Protection Rules, and Section 402 of the Clean Water Act, as amended.

X. Appeal Rights

Pursuant to 10 V.S.A. Chapter 220, an aggrieved person shall not appeal this permit or an authorization under this permit unless the person submitted to the Secretary a written comment during the applicable public comment period or an oral comment at the public meeting conducted by the Secretary. Absent a determination of the Environmental judge to the contrary, an aggrieved person may only appeal issues related to the person's comments to the Secretary as prescribed by 10 V.S.A. § 8504(d)(2).

Pursuant to 10 V.S.A. Chapter 220 and the Vermont Rules for Environmental Court Proceedings, any appeal of this permit or an authorization made pursuant to this permit, except for an appeal of a renewable energy plant as described below, must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. The notice of appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or the appellant's attorney. In addition, the appeal must give the address or location and description of the property, project, or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the notice of appeal in accordance with Rule 5(b)(4)(B) of the Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings.

If the subject decision relates to a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248, any appeal of such decision must be filed with the Vermont Public Utility Commission pursuant to 10 V.S.A. § 8506. Section 8506 does not apply to a facility that is subject to 10 V.S.A. § 1004 (dams before the Federal Energy Regulatory Commission), 10 V.S.A. § 1006 (certification of hydroelectric projects), or 10 V.S.A. Chapter 43 (dams). Any appeal under Section 8506 must be filed with the clerk of the Public Utility Commission within 30 days of the date of this decision; the appellant must file with the clerk an original and six copies of its appeal. The appellant shall provide notice of the filing of an appeal in accordance with 10 V.S.A. § 8504(c)(2) and shall also serve a copy of the notice of appeal on the Vermont Public Service Department. For further information, see the Rules and General Orders of the Public Utility Commission.

Y. DEFINITIONS

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

Agency – means the Vermont Agency of Natural Resources.

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

Bypass – means the intentional diversion of waste streams from any portion of the treatment facility.

The Clean Water Act – means the federal Clean Water Act, as amended (33 U.S.C. § 1251, et seq.).

Composite Sample - A composite of at least twenty-four (24) grab samples taken during one

consecutive 24-hour period, either collected at equal intervals and combined proportional to flow or continuously collected proportional to flow.

Daily Discharge – means 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.

Discharge – means the placing, depositing, or emission of any wastes, directly or indirectly, into an injection well or into the waters of the State.

Grab Sample – means an individual sample collected in a period of less than 15 minutes.

Incompatible Substance – means 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 the works or on water quality. This includes all pollutants required to be regulated under the Clean Water Act.

Instantaneous Maximum – means a value not to be exceeded in any grab sample.

Maximum Day or Maximum Daily Discharge Limitation – means the highest allowable “daily discharge” (mg/L, lbs or gallons).

Mean – means the arithmetic mean.

Method Detection Limit (MDL) – The method detection limit (MDL) is defined as the minimum measured concentration of a substance that can be reported with 99% confidence that the measured concentration is distinguishable from method blank results.

(https://www.epa.gov/sites/default/files/2016-12/documents/mdl-procedure_rev2_12-13-2016.pdf)

Minimum Level (ML) – The term “minimum level” refers to either the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL). Minimum levels may be obtained in several ways: They may be published in a method; they may be sample concentrations equivalent to the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a lab, by a factor. (<https://www.govinfo.gov/content/pkg/FR-2014-08-19/pdf/2014-19265.pdf>, p. 3 footnote 5)

Monthly Average or Average Monthly Discharge Limitation – means 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.

Monthly Average Flow - Monthly average flow shall be calculated by summing the daily effluent flow for each day in the given month and dividing the sum by the number of days of discharge in that month.

NPDES –means the National Pollutant Discharge Elimination System.

Pollutant – means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Secretary – means the Secretary of the Agency of Natural Resources or the Secretary’s duly authorized representative.

Untreated Discharge – means (1) combined sewer overflows from a WWTF; (2) overflows from sanitary sewers and combined sewer systems that are part of a WWTF during dry weather flows, which result in a discharge to waters of the State; (3) upsets or bypasses around or within a WWTF during dry or wet weather conditions that are due to factors unrelated to a wet weather storm event and that result in a discharge of sewage that has not been fully treated to waters of the State; and (4) discharges from a WWTF to separate storm sewer systems.

Upset – means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Waste – means effluent, sewage or any substance or material, liquid, gaseous, solid, or radioactive, including heated liquids, whether or not harmful or deleterious to waters.

Waters – means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through, or border upon the State or any portion of it.

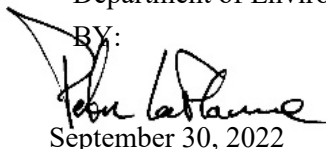
Weekly Average or Average Weekly Discharge Limitation – means the highest allowable average of daily discharges (mg/L, lbs or gallons) over a calendar week, calculated as the sum of all daily discharges (mg/L, lbs or gallons) measured during a calendar week divided by the number of daily discharges measured during that week.

Wastewater Treatment Facility (WWTF) – means a treatment plant, collection system, pump station, and attendant facilities permitted by the Secretary for the purpose of treating domestic, commercial, or industrial wastewater.

This permit shall become effective on October 1, 2022 and shall expire on September 30, 2027. An authorization to discharge under this general permit shall be valid for five years.

Julia S. Moore, Secretary
Department of Environmental Conservation

BY:



September 30, 2022

Peter LaFlamme, Director
Watershed Management Division

**STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**FACT SHEET
(AUGUST 2022)**

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR DISCHARGES FROM PETROLEUM RELATED
REMEDIAATION ACTIVITIES TO WATERS OF THE STATE**

**PERMIT NO. 3-9004
NPDES NO. VTG910001**

Regulatory Overview

Pursuant to the Clean Water Act (CWA), the Environmental Protection Agency (EPA) or an EPA-delegated state is authorized to issue NPDES permits for the discharge of pollutants from any point source into waters of the United States. As a delegated state, Vermont has the responsibility to administer the permit program and issue permits for discharges within the state. The Vermont Agency of Natural Resources is proposing to reissue a general permit for discharges from petroleum related remediation activities to waters of the State, which include all waters of the United States within the State of Vermont, with the exception of Outstanding Resource Waters and Class One Wetlands.

A general permit authorizes a state-wide class of discharges that share the same or similar qualities such that the discharges can be regulated by the same or similar permit conditions. The General Permit (3-9004) for Discharges from Petroleum Related Remediation Activities has been prepared in accordance with the State of Vermont's General Permit Rules, Section 13.12 of the Vermont Water Pollution Control Regulations and the Vermont Water Quality Standards, effective January 15, 2017.

After the issuance of the general permit, applicants must submit a "Notice of Intent" to be covered under the general permit. Each NOI is filed in the municipal office of the municipality where the discharge point will be located and is placed on notice for public comment for 14 days. The NOI describes the nature and location of the discharge(s) seeking authorization under the general permit. Any comments submitted on the NOI to the Department during the 14-day public comment period will be considered by the Department in its final decision on whether to grant authorization to discharge under the general permit.

Coverage under this general permit

This general permit will authorize and regulate discharges from petroleum related remediation activities to all Class B waters within the State of Vermont. This general permit is not applicable to discharges to Class A Waters, Outstanding Resource Waters, and Class One Wetlands. Petroleum related remediation activities include, but are not limited to, the discharge of one or more of the following: ground and/or surface water from remediation systems; surface and/or ground water accumulating as a result of excavation activity; surface and ground water

contaminated by spills; ground water resulting from pumping and/or monitoring aquifer(s). All of the previously mentioned discharges result from corrective actions involving above ground or underground storage tanks used to store gasoline, diesel fuel, kerosene, jet fuel, or heating oil, or the transportation of these materials.

Discharges not covered by the general permit include discharges from federally owned facilities, discharges to groundwater, discharges to Publicly-Owned Treatment Works, and discharges from petroleum related remediation activities that are mixed with or contaminated by any other wastes or discharges.

Permit Requirements

Monitoring

EPA has developed technology-based effluent limitations through the development of national effluent limitations guidelines for many specific categories of industries. However, national effluent guidelines have not been promulgated for wastewater discharges resulting from petroleum related cleanups. Consequently the effluent limits proposed for this general permit have been developed based on Vermont Water Quality Standards for Protection of Human Health, Consumption of Water and Organisms and best professional judgment (BPJ) in accordance with 40 CFR §125.3. BPJ is used to develop technology-based effluent limits in those cases where an effluent guideline has not been promulgated for the industry and water quality standards do not dictate limits more stringent than technology-based limits.

This permit requires the permittee to monitor flow, benzene, total BTEX, MTBE, lead, naphthalene, (1,2,4), (1,3,5), and (1,2,3) trimethylbenzenes, and, if the source is diesel, heating oil, kerosene and/or jet fuel, total petroleum hydrocarbons (TPH) at a frequency of twice a month.

Sampling of effluent flow has been increased in the draft permit from once a month to daily in order to monitor compliance with the design flow of treatment systems indicated in the NOI. Discharge flow shall be measured after treatment using a continuous measurement flow meter (i.e., a device that records the instantaneous gallons per minute (GPM) and total gallons discharged). If an operator demonstrates that use of a meter is infeasible and such a change is approved by the Secretary in writing, discharge flow shall be based on an estimate. An estimate of discharge flow shall be determined by the operation time and design flow of the treatment system in use at a site, or the flow rate and dimensions of the outfall at a site.

The technology based permit limit for benzene in the draft permit has reduced from 5 parts per billion (ppb) to 2.1 ppb to comply with Vermont Water Quality Standards for the Protection of Human Health, Consumption of Water and Organisms.

The proposed BTEX permit limit of 50 ppb is based on several years of monitoring at Vermont sites utilizing activated carbon, air strippers, or a combination of both that has demonstrated that the existing technology is capable of achieving this limit. Accordingly, the total petroleum hydrocarbons (TPH) limit of 1000 ppb is also based on past monitoring data at Vermont sites that demonstrates the existing technology capable of achieving the effluent limit. This remains in the permit based on Federal anti-backsliding requirements established in Section 402(o) of the CWA and 40 C.F.R. §122.44(l).

The draft permit adds monitoring of Lead, Naphthalene, and (1,2,4), (1,3,5) and (1,2,3) trimethylbenzenes twice monthly. These are additional contaminants of concern based on past monitoring data at Vermont petroleum remediation sites. The technology based permit limit for Lead is 30 ppb based on Vermont Water Quality Standards for the Protection of Human Health, Consumption of Water and Organisms. Naphthalene and trimethylbenzenes are monitor only as they are not included in Vermont Water Quality Standards.

Reporting

The Permittee is required to submit monthly reports of monitoring results and operational parameters on Discharge Monitoring Report (DMR) form WR-43 or through an electronic reporting system made available by the Secretary. Reports are due on the 15th day of each month, beginning with the month following the effective date of this permit.

Unless waived by the Secretary, the Permittee shall electronically submit its DMRs via [Vermont's online electronic reporting system](#). The Permittee shall electronically submit additional compliance monitoring data and reports specified by the Secretary. When the Permittee submits DMRs using an electronic system designated by the Secretary, which requires attachment of scanned DMRs in PDF format, it is not required to submit hard copies of DMRs. The electronic submittals are submitted through the State of Vermont Agency of Natural Resources' Online Services Portal, or its replacement.

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

Upon receiving coverage under the general permit, the permittee will be emailed the appropriate forms for submitting the data required by the permit.

Termination

Upon elimination of a discharge authorized under this permit, a permittee may request that coverage under this permit be terminated by submittal of a completed [Request for Termination of Coverage Form](#) to the Department. Coverage under this permit will be terminated upon receipt of a written determination by the Department that the Notice of Termination filing is complete and the discharge has been eliminated.

Application Procedure

To obtain coverage under the general permit, an NOI must be submitted to the Department, and an authorization to discharge received from the Department. As required by the General Permit Rules, a public notice of the application for coverage under the general permit must be sent by the applicant to the clerk's office of the municipality where the discharge is to occur for a 14 day public comment period. The public notice form is included as part of the NOI.

Upon written request from the Department, an applicant must submit additional information that may be necessary to enable the Department to authorize the discharge under this permit. The applicant will have up to 60 days, per the Vermont Department of Environmental Conservation Application Review Procedure, to submit the additional information or the application for authorization may be denied.

The Department may require an applicant to apply for an individual permit. Cases where an

individual permit may be required include those cases where the discharge does not qualify for coverage and for the reasons listed under Section D of the General Permit Rules. Where it has been determined that an applicant must apply for an individual permit, the Department will send a letter of explanation and request any additional material necessary to complete the application.

Public Comment Period

The public comment period for receiving comments on this draft permit was from September 1, 2022 through September 30, 2022 during which time no comments were received.