

VT DEC Stormwater Program Statement on Enforcement Discretion

The following statement is issued in accordance with the Agency of Natural Resources COVID – 19 State of Emergency Enforcement and Compliance Guidance Document, dated March 31, 2020 (Guidance Document). The Guidance Document is available at https://anr.vermont.gov/about_us/emergency-information. The exercise of enforcement discretion described in the following statement is contingent on affected projects meeting all applicable criteria of the Guidance Document.

This statement applies to facilities and projects regulated under a stormwater permit issued pursuant to 10 V.S.A. § 1264 and the Stormwater Permitting Rule (Ch. 22, Environmental Protection Rules), in particular the following types of stormwater permit authorizations:

- Operational (individual stormwater permit, authorizations under GP 3-9010 and GP 3-9015)
- Construction (individual construction permit, authorizations under Construction General Permit 3-9020)
- Industrial (authorizations under the Multi-Sector General Permit 3-9003)
- Municipal Roads (authorizations under the Municipal Roads General Permit 3-9040)
- Transportation Separate Storm Sewer System (authorizations under the TS4 GP 3-9007)
- Municipal Separate Storm Sewer System (authorizations under the MS4 GP 3-9014)

The Agency is hereby exercising enforcement discretion pursuant to the Guidance Document for any instance of non-compliance listed below provided:

- a. The noncompliance does not present a significant threat to human health or the environment;
- b. The permittee takes all reasonable steps to prevent and/or mitigate the noncompliance;
- c. The permittee notifies the Agency of the noncompliance as soon as possible; and
- d. The permittee comes into compliance as soon as possible or enters into a schedule to return to compliance with the Agency.

Specifically, the Agency will exercise enforcement discretion for:

- Reporting requirements provided the permittee submits all required reports no later than 30 days from the end of the Governor’s declaration of a state of emergency related to the outbreak of COVID-19.
- Sampling and laboratory analysis requirements provided all required sampling and associated analyses are completed no later than 90 days from the end of the Governor’s declaration of a state of emergency related to the outbreak of COVID-19.
- Inspection requirements provided all required inspections take place no later than 30 days from the end of the Governor’s declaration of a state of emergency related to the outbreak of COVID-19, except for inspections related to projects subject to an individual construction permit or authorization under CGP 3-9020 where the site has not achieved final stabilization, in which case provided the required inspection takes place no later than 7 days from the end of the Governor’s declaration of a state of emergency related to the outbreak of COVID-19.

- Maintenance of stormwater best management practices provided the maintenance activities are completed no later than 30 days from the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19, except for maintenance requirements related to projects subject to an individual construction permit or authorization under CGP 3-9020 where the site has not achieved final stabilization, in which case provided the required maintenance takes place no later than 14 days from the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.
- Recording of notice of permit issuance in land records, provided the filing takes place no later than 30 days from the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.
- Renewal of expiring permit authorizations, provided the required application is submitted no later than 30 days from the end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.

Any report concerning an incident of non-compliance should be sent to ANR.WSMDStormwaterGeneral@vermont.gov or may be submitted via phone at (802) 828-1115. Any report submitted shall include the permit number and reference to the permit condition not met. Any questions concerning this statement should be directed to the Stormwater Program staff for the district in which the project is located. Staff contact information is available at <https://dec.vermont.gov/watershed/stormwater/contacts>

This statement shall expire the at end of the Governor's declaration of a state of emergency related to the outbreak of COVID-19.