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Vermont Stormwater Management: The 3-Acre Rule

In our report, we provide an overview of federal stormwater legislation as the broader context for Vermont's stormwater management practices. We then examine state-specific legislation (the 3-Acre Rule) and its enactment and enforcement processes. Finally, we compare Vermont's stormwater management to that of six other northeastern states.

Federal Stormwater Management

General History

Vermont's 3-Acre Rule is a state regulation based on federal water protection laws. The modern framework for stormwater management began with the 1972 amendments to the *Federal Water Pollution Control Act of 1948*.[1] When the U.S. Congress passed these amendments, it renamed the legislation to the *Clean Water Act.*[2] The primary goal of the act was to control point source pollution, which consists of pollutants released from a specific identifiable source into U.S. waters.[3] It also granted the U.S. Environmental Protection Agency (EPA) the authority to regulate industrial wastewater and provided federal funding for the construction of sewage treatment plants. In addition to the EPA, the U.S. Army Corps of Engineers is responsible for the design and construction of water-related environmental infrastructure, including stormwater and wastewater management systems, clean water infrastructure, and flood risk management projects.[4]

National Pollutant Discharge Elimination System

The *Water Quality Act of 1987* includes amendments to the earlier *Clean Water Act,* which established the National Pollutant Discharge Elimination System.[5] Phase One, which began in 1990, required municipalities with populations of 100,000 or more and construction sites that disturb five or more acres of the natural state of the soil to obtain a permit. Phase Two, which

[1] U.S. Environmental Protection Agency, "History of the Clean Water Act," accessed September 22, 2025. https://www.epa.gov/laws-regulations/history-clean-water-act
[2] *Clean Water Act, U.S. Code* 33 (2025), 1251 §§ et seq.
[3] U.S. Environmental Protection Agency, "History of the Clean Water Act."
[4] U.S. Army Corps of Engineers, "Environmental Infrastructure," accessed September 24, 2025. https://www.usace.army.mil/Missions/Civil-Works/Environmental-Infrastructure/; U.S. Army Corps of Engineers, "Flood and Coastal Storm Risk Management," accessed September 24, 2025. https://www.usace.army.mil/Missions/Civil-Works/Flood-and-Coastal-Storm-Risk-Management/
[5] U.S. Environmental Protection Agency, "NPDES Permits around the Nation," accessed September 22, 2025. https://www.epa.gov/npdes-permits

began in 2003, expanded these requirements to include municipalities with populations between 10,000 and 100,000 and construction sites disturbing between one and five acres of soil.[6]

The 1987 amendment to the *Clean Water Act* transferred permitting authority from the federal government to the individual states. As of November 2025, 47 states are responsible for administering their own stormwater permits, with the EPA directly issuing them in only three states: New Hampshire, Massachusetts, and New Mexico.[7] These states either opted out of administering the program or did not meet the five federal requirements for authorization. These requirements include:

1. A letter from the governor;
2. A memorandum of agreement;
3. A program description;
4. An Attorney General's Statement;
5. And the underlying state laws and regulations.[8]

Clean Water State Revolving Fund

The 1987 *Clean Water Act* amendments replaced the EPA's Construction Grants Program with the Clean Water State Revolving Fund.[9] This transition introduced two fundamental changes. First, it shifted administrative responsibility from the EPA to state governments, enabling the state governments to prioritize and fund the water management projects they deem most critical.[10] Second, it changed the funding mechanism from federal grants to loans.[11] The Clean Water State Revolving Fund is funded by federal government appropriations, state contributions, and leveraged bonds.[12] For states to receive federal funds, they must provide a 20 percent match of funds and agree to repay the loans, ensuring the funds for future projects.[13]

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[6] State of Rhode Island Department of Environmental Management, "RIPDES Stormwater Municipal Separate Storm Sewer Systems."; Sonoma County, "National Pollutant Discharge Elimination System (NPDES) Information."
[7] U.S. Environmental Protection Agency, "NPDES Permits around the Nation."
[8] U.S. Environmental Protection Agency, "NPDES State Program Authorization Information," accessed September 23, 2025. https://www.epa.gov/npdes/npdes-state-program-authorization-information
[9] U.S. Environmental Protection Agency, "Evolution of Stormwater Permitting and Program Implementation approaches," May 17, 2018. https://www.epa.gov/sites/default/files/2018-10/documents/evolution_of_stormwater_permitting_approaches_and_program_implementation-2018-05-17.pdf
[10] U.S. Environmental Protection Agency, "Evolution of Stormwater Permitting and Program Implementation approaches."
[11] U.S. Environmental Protection Agency, "Evolution of Stormwater Permitting and Program Implementation approaches."
[12] New Hampshire Department of Environmental Services, "Clean Water State Revolving Fund," accessed September 23, 2025. https://www.des.nh.gov/business-and-community/loans-and-grants/clean-water-state-revolving-fund; Katie Hansen, Govind Sawhney, Simon Warren, and Martin Doyle, "Uncommitted State Revolving Funds," *Nicholas Institute for Environmental Policy Solutions Duke University,* 2022. https://nicholasinstitute.duke.edu/sites/default/files/publications/Uncommitted-State-Revolving-Funds_2.pdf
[13] U.S. Environmental Protection Agency, "Clean Water State Revolving Fund Infographic," accessed September 23, 2025. https://www.epa.gov/cwsrf/clean-water-state-revolving-fund-infographic

Vermont Stormwater Management (3-Acre Legislation)

The 3-Acre Rule

The 3-Acre Rule, created by legislation detailed later in this section, requires 3-Acre Sites to adopt a stormwater permit; most often the General Permit 3-9050 and, in some cases, an Individual Stormwater Permit.[14] While General Permit 3-9050 is the permit that is most often issued for 3-Acre Sites, under "limited circumstances," an Individual Stormwater Permit is issued instead.[15] This is applied to projects utilizing Alternative Stormwater Treatment Practices, which must be verified as practices capable of meeting the Water Quality Treatment Standard outlined in the 2017 *Vermont Stormwater Management Manual* and must also prove long-term efficacy.[16]

In Vermont, 3-Acre Sites are defined as areas with impervious surfaces of three or more acres in which property owners have either obtained a permit under standards existing prior to the 2002 *Vermont Stormwater Management Manual* or never had an operational stormwater permit.[17] Stormwater is runoff from snowmelt or rain that picks up pollutants as it flows over impervious surfaces, posing harm to the bodies of water.[18] Impervious surfaces are manmade surfaces that liquids (such as stormwater) do not penetrate.[19]

Areas of impervious surface defined as 3-Acre Sites include:

1. Single tracts of land with three or more acres of impervious surface;
2. Projects on tracts of land previously authorized under a permit that allowed for the discharge of stormwater from three or more acres of impervious surface;
3. And impervious surfaces that are adjacent to or adjoining the types, where the surface in question is part of a related operation.[20]

General Permit 3-9050 is a component of the *Vermont Clean Water Act of 2015*, also known as *Act 64,* and is issued by the Vermont Agency of Natural Resources (ANR).[21] *Act 64* states that

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[14] Department of Environmental Conservation, "Three-Acre Sites," *Vermont Agency of Natural Resources,* accessed September 20, 2025. https://dec.vermont.gov/three-acre-sites

[15] Department of Environmental Conservation, "Operational Stormwater Discharge Permitting Section," *Vermont Agency of Natural Resources,* updated August 5, 2025. https://dec.vermont.gov/wsmd/stormwater/operational-stormwater#:~:text=A%20discharge%20from%20a%20combination,projects%20to%20improve%20the%20watershed

[16] Vermont Agency of Natural Resources, *2017 Vermont Stormwater Management Manual Rule and Design Guidance,* accessed September 22, 2025. https://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/Permitinformation/2017%20VSMM_Rule_and_Design_Guidance_04172017.pdf

[17] Department of Environmental Conservation, "Three-Acre Sites."

[18] U.S. Environmental Protection Agency, *NPDES Stormwater Program,* May 14, 2025. https://www.epa.gov/npdes/npdes-stormwater-program

[19] 10 V.S.A. § 1264.

[20] Department of Environmental Conservation, "Three-Acre Sites."

[21] Department of Environmental Conservation, "Three-Acre Sites"; Department of Environmental Conservation, "General Permit 3-9050 For Operational Stormwater Discharges," *Vermont Agency of Natural Resources,* December 1, 2020. https://dec.vermont.gov/sites/dec/files/wsm/stormwater/docs/2020_09_01%20Final%20GP%203-9050.pdf

the ANR has rulemaking authority for the stormwater program.[22] The law describes the ANR's plan to issue a general permit for stormwater discharges from 3-Acre sites and establish an implementation schedule that began in the Lake Champlain basin and will be extended to the rest of the state by October 1, 2028.[23]

Enactment

The Vermont Department of Environmental Conservation, which exists under the ANR, enacted the 3-Acre Rule. In Vermont, the state is the approved authority to administer a permit program that is consistent with the federal National Pollutant Discharge Elimination System.[24]

The General Permit 3-9050 program was issued in September 2020 and went into effect in December 2020.[25] However, for 3-Acre Sites, additional time was provided to apply for the permit. Applications were accepted on a staggered schedule that began in December 2021 and extended through early 2023.[26] According to the ANR, property owners of 3-Acre Sites in the Lake Champlain, Lake Memphremagog, and other stormwater-impaired watersheds, of which there were approximately 8,000, were notified by the agency and were provided with information on how to apply for the permit.[27]

Enforcement

Compliance with the General Permit 3-9050 program is based on Vermont Statute Title 10, which addresses conservation and development.[28] Specifically, enforcement is outlined in Chapter 47: Water Pollution Control. Violations of the terms and conditions of General Permit 3-9050 are subject to the penalties outlined in Vermont Statutes 1274 and 1275 and to administrative enforcement outlined in Vermont Statute 1272.[29]

Vermont Statute 1274 gives the Secretary of Natural Resources the authority to bring in the superior court of a county to intervene in situations in violation of this chapter, including noncompliance, damage to wetlands, and direct or indirect discharge of waste into state waters.[30] Vermont Statute 1275 outlines specific penalties for said violations. For those who refuse or fail to comply with the permits' terms, a fine of up to $25,000 or imprisonment of up to six months, or both, is possible; additionally, those who falsify information regarding the permit face punishment in the form of a fine of up to $10,000 and/or imprisonment of up to six months.[31]

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[22] Vermont Legislature, *Vermont Clean Water Act (Act No. 64)*, H. 35, June 16, 2015. https://legislature.vermont.gov/Documents/2016/Docs/ACTS/ACT064/ACT064%20Act%20Summary.pdf
[23] Vermont Legislature, *Vermont Clean Water Act (Act No. 64).*
[24] Department of Environmental Conservation, "General Permit 3-9050 (2020) For Operational Stormwater Discharges."
[25] Department of Environmental Conservation, "General Permit 3-9050."
[26] Department of Environmental Conservation, "General Permit 3-9050."
[27] Department of Environmental Conservation, "General Permit 3-9050."
[28] Department of Environmental Conservation, "General Permit 3-9050 (2020) For Operational Stormwater Discharges."
[29] Department of Environmental Conservation, "General Permit 3-9050 (2020) For Operational Stormwater Discharges."
[30] 10 V.S.A § 1251; 10 V.S.A § 1274.
[31] 10 V.S.A § 1275.

Compliance with the regulations associated with the permit is also required under Chapter 201: Administrative Environmental Law Enforcement and Chapter 211: Civil Enforcement, which both also exist under Title 10 of the Vermont General Assembly.[32] Additionally, violators of the permit terms and conditions are subject to consequences outlined by the EPA, which maintains authority to enforce any violations of Section 309 of the *Clean Water Act.*[33]

Comparison to Other Northeast States

Maine

Maine's stormwater permitting program is similar to Vermont's 3-Acre Rule. Maine's stormwater statutes and state programs, through its Department of Environmental Protection, treat projects differently by size and type of impervious area.[34] The statutes and Department of Environmental Protection rules explicitly discuss standards for projects with up to three acres of impervious surface and set permitting or planning requirements tied to impervious acres and disturbed area thresholds.[35] Maine also has shoreland or most-at-risk lake rules that trigger stormwater controls at relatively small impervious-area thresholds.[36] Maine's rules explicitly use impervious-area cutoffs, including three-acre references, to determine which post-construction stormwater standards apply.

New York

New York State's State Pollutant Discharge Elimination System program and "State Stormwater Management Design Manual" use impervious-area categories which, like Vermont, use three-acre thresholds in both design and regulatory contexts.[37] New York has statewide permit programs for Municipal Separate Storm Sewer Systems along with industrial and commercial dischargers.[38] New York stormwater management requires specific manual and permitting restraint and is triggered in impervious site use cases.[39]

Connecticut and Rhode Island

[32] Department of Environmental Conservation, "General Permit 3-9050 (2020) For Operational Stormwater Discharges."
[33] Department of Environmental Conservation, "General Permit 3-9050 (2020) For Operational Stormwater Discharges."
[34] Maine Department of Environmental Protection, *Chapter 500: Stormwater Management*. Maine DEP Rules, accessed September 22, 2025. https://www.maine.gov/dep/land/stormwater/ch500.html
[35] Maine Department of Environmental Protection. *Chapter 500: Stormwater Management*.
[36] Maine Legislature. (2025). *Title 38, §420-D: Storm Water Management and Permitting*. Maine Revised Statutes, accessed September 22, 2025. https://legislature.maine.gov/statutes/38/title38sec420-D.html
[37] New York State Department of Environmental Conservation, *SPDES General Permits for Stormwater Discharges*, accessed September 22, 2025. https://www.dec.ny.gov/chemical/43150.html
[38] New York State Department of Environmental Conservation, *New York State Stormwater Management Design Manual*, accessed September 22, 2025. https://dec.ny.gov/environmental-protection/water/water-quality/stormwater/construction-stormwater-toolbox
[39] New York State Department of Environmental Conservation, *New York State Stormwater Management Design Manual*.

Both Connecticut and Rhode Island require stormwater permits for construction which disturbs one or more acres in its construction plans. The two states use the National Pollutant Discharge Elimination System and Construction General Permits frameworks adopted at the state level. Local ordinances often set smaller permitting triggers for site disturbances of a few thousand square feet.[40] These states focus on construction and disturbance thresholds rather than an across-the-board program bringing existing developed properties with several acres of impervious surface into a new general permit program.

New Hampshire

Unlike the above cases, both New Hampshire's and Massachusetts' permitting processes are regulated by the U.S EPA. New Hampshire's *Shoreland Water Quality Protection Act* and the state's Department of Environmental Services stormwater rules regulate impervious areas within protected shoreland zones. Rather than numerical acreage, New Hampshire requires stormwater permitting for all sites composed of at least 20 percent impervious surface.[41] New Hampshire also follows one-acre construction thresholds for Construction General Permits.[42] New Hampshire uses impervious-area metrics and triggers, but these are percentage thresholds in shoreland zones rather than a flat three-acre statewide trigger.[43] New Hampshire uses percentage thresholds for stormwater runoff with the intention to assess the environmental impact of a project rather than relying on a fixed number of acres.[44]

Massachusetts

Massachusetts enforces the Massachusetts Department of Environmental Protection Stormwater Management Standards and the federal and state Construction General Permits. Many local stormwater bylaws and ordinances adopt their own post-construction thresholds, with some as small as a few thousand square feet.[45] The Department of Environmental Protection guidance focuses on small stormwater Best Management Practices and water-quality volume for

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[40] Rhode Island Department of Environmental Management, *Stormwater Permitting.* https://dem.ri.gov/environmental-protection-bureau/water-resources/permitting/stormwater-permitting/stormwater-rules; Connecticut Department of Energy & Environmental Protection, *Stormwater Management.* https://portal.ct.gov/deep/water-regulating-and-discharges/stormwater/stormwater-management

[41] New Hampshire Department of Environmental Services, *Shoreland Water Quality Protection Act,* accessed September 22, 2025. https://www.des.nh.gov/water/stormwater

[42] University of New Hampshire Extension, *NH Stormwater Manual*, accessed September 29, 2025. https://extension.unh.edu/stormwater-center/nh-stormwater-manual

[43] New Hampshire Department of Environmental Services, *Shoreland Water Quality Protection Fact Sheet*, accessed September 22, 2025. https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/sp-1.pdf

[44] Rockingham Planning Commission, *Stormwater Management: Impervious Surface Reduction,* accessed October 20, 2025. https://www.therpc.org/application/files/8616/5773/5075/ResilientLandUseGuide_STORMWATER_ImperviousSurfaceReduction.pdf

[45] Massachusetts Department of Environmental Protection, *Stormwater*, accessed September 22, 2025. https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards

redevelopment and/or new development. Massachusetts uses one-acre triggers, but this varies by local bylaws.[46]

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[46] Massachusetts Department of Environmental Protection, Massachusetts Stormwater Handbooks and Stormwater Standards, accessed September 29, 2025. https://www.mass.gov/guides/massachusetts-stormwater-handbook-and-stormwater-standards?_gl=1*1b0651r*_ga*MTgzMDgzMjA5MC4xNzU5Njg1MzIz*_ga_MCLPEGW7WM*czE3NTk2ODUzNTAkbzEkZzAkdDE3NTk2ODUzNTAkajYwJGwwJGgw#-stormwater-handbook-volume-1-