



STORMWATER MANAGEMENT PLAN

FOR

TOWN OF CAPE ELIZABETH, MAINE

MS4 General Permit Effective July 1, 2022
Initial Submittal to Maine DEP March 30, 2021
Resubmitted 8/27/2021 to address Maine DEP Comments
Updated 6/20/2022 to incorporate Permit Modification and Department Order
[Updated July 2023](#)

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1 INTRODUCTION

1.1 Overview of Regulatory Program

The Town of Cape Elizabeth is subject to the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s) which was issued by the Maine Department of Environmental Protection (DEP) with an effective date of July 1, 2022. Because the permit is a Clean Water Act permit, it is limited to a duration of five (5) years and is due to expire on June 30, 2027. However, if the Maine DEP does not issue another Permit by June 30, 2027, the permit will be administratively continued, and the Town may need to update this Stormwater Management Plan to show what activities it will complete during the continued time period.

Communities are regulated under this program when and if they are identified as having “Urbanized Areas” in their municipal boundary. An Urbanized Area is a U.S. Census-defined term, applied to a large area (50,000 people or more) that has a high population density and/or a high percentage of impervious cover (hard scape surfaces like parking lots or buildings). Both of these criteria (high population density and high percentage of impervious cover) cause an area to be at risk for adverse surface water quality impacts from polluted stormwater discharges.

The U.S. Environmental Protection Agency (USEPA) and Maine DEP began regulating communities for their stormwater discharges using the Urbanized Area criteria in 2003. The Town of Cape Elizabeth became regulated in 2003 based on the 2000 census.

Once a community becomes regulated by the MS4 General Permit, only the Urbanized Area portions of the town are regulated. As each U.S. Census is published, if the Urbanized Area changes (based on changes to the population or impervious cover), additional areas can be added to the regulated area only after a new MS4 General Permit is issued. Once an Urbanized Area is regulated by the MS4 General Permit, it cannot be removed from regulation, even if a subsequent census identifies it is no longer classified as an Urbanized Area. So, the area regulated by the MS4 General Permit can either grow larger or stay the same size, but it cannot become smaller. Appendix A shows the Urbanized Area that is regulated by the 2022 MS4 General Permit for the town, which is based on the cumulative 2000 and 2010 U.S. Census Urbanized Area data. The 2022 MS4 General Permit specifically does not include any areas identified by the 2020 U.S. Census.

1.2 Cooperation Between Regulated Communities

There are 30 municipalities in the State of Maine that are subject to the 2022 MS4 General Permit. There are also two transportation agencies which are subject to their own MS4 General Permit, and eight state/federal agencies (which are called “nested” MS4s) that are

subject to a third MS4 General Permit. The regulated MS4s (municipal, transportation and state/federal) have a good history of cooperating on a state-wide basis to complete activities required by the General Permit such as public outreach and training as a cost saving measure and to improve the quality of compliance.

The Town of Cape Elizabeth is a member of the Casco Bay Interlocal Stormwater Working Group (ISWG), pronounced *izzy-wig*. ISWG is a coalition of 14 MS4 municipalities in the greater Portland and Saco areas (Biddeford, Cumberland, Falmouth, Freeport, Gorham, Old Orchard Beach, Portland, Saco, Scarborough, South Portland, Westbrook, Windham, and Yarmouth) as well as the Southern Maine Community College and University of Southern Maine which are also regulated as MS4s under a separate permit. This coalition is facilitated by the Cumberland County Soil and Water Conservation District, which also assists in completing some of the permit requirements under contract to the coalition.

Similarly, the Bangor area MS4s have formed the Bangor Area Stormwater Working Group (BASWG), the Lewiston-Auburn area MS4s formed the Androscoggin Valley Stormwater Working Group (AVSWG), and the southern-most regulated MS4s formed the Southern Maine Stormwater Working Group (SMSWG). For some public education requirements, all of the stormwater working groups are working cooperatively as identified in this plan.

In implementing the 2022 MS4 General Permit, the Town of Cape Elizabeth relies on the ISWG to complete some requirements, hires a third party-consultant to implement some requirements and implements other requirements using municipal staff. This plan describes which elements will be completed individually, regionally or as a state-wide effort.

1.3 Stormwater Management Plan

Though the MS4 General Permit is a Clean Water Act Permit, it does not specify numeric effluent limitations (concentrations that a stormwater discharge must meet). Instead, the MS4 General Permit specifies narrative effluent limitations, in the form of Minimum Control Measures (MCMs).

Each of the four MS4 General Permits (effective 2003, 2008, 2013, and 2022) has required that the regulated MS4s develop and implement a Stormwater Management Plan (SWMP or Plan) to coincide with the effective dates of the General Permit.

This SWMP describes how the Town will implement Best Management Practices (BMPs) to meet the six MCMs, set forth in Part IV(C) of the 2022 MS4 General Permit. The six MCMs that are required to be addressed in this Plan are:

- 1 Education/Outreach Program
- 2 Public Involvement and Participation
- 3 Illicit Discharge Detection and Elimination Program
- 4 Construction Site Stormwater Runoff Control

- 5 Post-Construction Stormwater Management in New Development and Redevelopment
- 6 Pollution Prevention/Good Housekeeping for Municipal Operations

The 2022 MS4 General Permit requires that for each MCM, the Town must: define appropriate BMPs; designate a person(s) responsible for implementing each BMP; define a date or timeline with milestones for implementation of each BMP; and define measurable goals for each BMP.

The prior MS4 General Permits also required that the SWMP address these six MCMs, but the specific requirements related to each MCM have changed with each permit. In many instances, the BMPs in this plan expand upon or continue BMPs that were developed under prior General Permits.

In addition to addressing the six (6) Minimum Control Measures, the Town must address several impaired waters requirements. Sections 1.4 and 1.5 describe the water quality status in the Town, and what watersheds are considered to be priorities. Sections 1.6 through 1.9 describe how permit coverage is obtained, how the SWMP is modified (when needed), when public notice is required, and annual reporting requirements.

The Maine DEP will review this Stormwater Management Plan and determine if the Town is controlling pollutants to the “Maximum Extent Practicable”. The term “Maximum Extent Practicable” is defined in the Clean Water Act. The term means available and feasible considering cost, existing technology, and logistics based on the overall purpose of the project. Effectively, the Town is allowed to consider these concepts as they select Best Management Practices (BMPs) to meet permit requirements, but the Maine DEP decides if the Town is meeting the “Maximum Extent Practicable” standard.

The SWMP is not an enforceable document however, some of its elements are enforceable as identified in The Town’s Department Order contained in Appendix B. Some flexibility is built in to the SWMP to allow communities to engage in an adaptive management approach to mitigating or eliminating the discharge of pollutants to and from its regulated small MS4. This allows the Town to adjust the SWMP and BMPs throughout the Permit Cycle if needed based on evaluations of their effectiveness, changing conditions, specific local concerns, or changes in other factors. Some SWMP Modifications require DEP review and approval and public notice. Section 1.6 Obtaining Coverage to Discharge, and Section 1.8 SWMP Modifications describe the requirements associated with modifying a SWMP.

1.4 Water Quality and Discharges to Impaired Waters

The 2022 MS4 General Permit contains the following requirements for discharges to waters that are not meeting their fishable and swimmable standards (a.k.a. impaired waters):

- (1) If the waterbody to which a point source discharge drains is impaired and has an EPA approved total maximum daily load (TMDL), then the SWMP must propose

clear, specific and measurable actions to comply with the TMDL waste load allocation (“WLA”) and any implementation plan. The GP does not authorize a direct discharge that is inconsistent with the WLA of an approved TMDL. This requirement applies only to TMDLs that were approved by EPA as of 10/15/2020.

- (2) If a TMDL is approved or modified by EPA after 10/15/2020, the Maine DEP will notify the permittee if any changes are needed to the SWMP and may take other actions regarding the approved TMDL as identified in the 2022 MS4 General Permit.
- (3) If an MS4 has a discharge to an Urban Impaired Stream, it must develop and implement three (3) BMPs to address the water’s impairment, unless the DEP has determined the MS4 discharge is not causing or contributing to the impairment.

The Fact Sheet that was issued with the 2022 MS4 General Permit also contained a strongly worded recommendation for MS4s to consult with the Maine DEP Division of Environmental Assessment regarding impaired waters that do not have approved TMDLs. The consult would be focused on identifying the root cause of the impairment and developing a strategy to reduce the discharge of pollutants of concern if the permittee is causing or contributing to the impairment.

Section 1.4.1 describes generally how the State evaluates surface waters and describes TMDL documents and Urban Impaired Streams. Section 1.4.2 describes the status of the waters that receive discharges from the Town’s MS4. If applicable, Section 1.4.3 describes recent progress by the Town on addressing any impairments which have MS4 requirements and provides rationale for how the BMPs in this SWMP address these 2022 MS4 General Permit requirements.

1.4.1 State Water Quality Assessments

The State of Maine is required by the Clean Water Act to identify water quality classifications for each surface water in the State, and then to assess whether each of those waters is meeting its designated classification standards. Maine has four classifications for freshwater rivers, three classes for marine and estuarine waters, and one class for lakes and ponds. Each classification identifies a use and set of water quality standards for the water. The classifications, uses, and standards are described and assigned to the various waters in the Maine Statutes (Title 38, Sections 464 through 469).

Assessments as to whether each water is achieving its designated classification are based on data that is obtained from a number of sources depending on the type of water being assessed:

- Lakes and ponds are assessed primarily through data obtained by the DEP and regional entities and lake associations. The regional and lake association data is coordinated

through the Lake Stewards of Maine (Volunteer Lake Monitoring Program).

- Marine and Estuarine waters are assessed by evaluation of data obtained from the DEP, Maine Healthy Beaches, Department of Marine Resources, Marine Environment's Gulf Watch, Gulf of Maine Council, and several other academic and non-profit organizations.
- Wetlands are assessed primarily using data obtained from the DEP Biomonitoring Program.
- Rivers and Streams are assessed using data from the DEP Biomonitoring Program, Surface Water Ambient Toxics (SWAT) Monitoring Program, the Atlantic Salmon Recovery Plan, Volunteer River Monitoring Program (VRMP) and through many other government agencies such as the Department of Inland Fisheries and Wildlife, EPA, United States Geologic Survey.

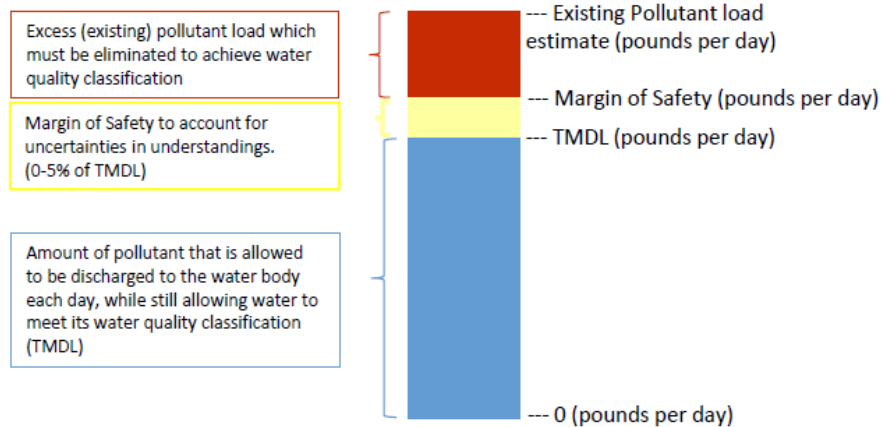
Every two years, the DEP publishes a report and list documenting the results of the assessments, and identifying which waters are meeting their designated classifications, and which are considered impaired. The report and list are called the Integrated Water Quality Report and are generally referred to by the Section of the Clean Water Act which requires them: the 305(b) report and/or the 303(d) list, respectively. There are five general status categories available for assignment to each water:

- Category 1: Attaining all designated uses and water quality standards, and no use is threatened.
- Category 2: Attains some of the designated uses; no use is threatened; and insufficient data or no data and information is available to determine if the remaining uses are attained or threatened (with presumption that all uses are attained).
- Category 3: Insufficient data and information to determine if designated uses are attained (with presumption that one or more uses may be impaired).
- Category 4: Impaired or threatened for one or more designated uses, but does not require development of a TMDL (Total Maximum Daily Load) report.
 - 4A means a TMDL has already been completed
 - 4B means other pollution control measures will address impairment
 - 4C means the impairment is not caused by a pollutant
- Category 5: Waters impaired or threatened for one or more designated uses by a pollutant(s), and a TMDL report is required

In Maine, the most current 303(d) list approved by the EPA is from the 2016 data. The Maine DEP has indicated they will issue a combined 2018/2020/2022 303(d) list sometime in 2022.

A TMDL document identifies the source(s) of the impairments and recommendations to correct the impairments. In particular, a TMDL document identifies how much of a pollutant a water body can receive and still meet its water quality classification. Typically, the units are identified as pounds per day, which is the basis for the term "Total Maximum Daily Load."

TMDLs typically include a Margin of Safety between 2 and 5% of the TMDL to account for uncertainties or lack of knowledge about the relationship between the pollutant loading and water quality.



Total Maximum Daily Load (TMDL) Components

In addition to the Maine 305(b) report and 303(d) list, Maine has developed a special rule, Chapter 502, which has restrictions related to Direct Watersheds of Lakes Most at Risk from New Development and Urban Impaired Streams. This rule became effective in 1997 and has been modified several times over the years. The rule defines an Urban Impaired Stream as a stream that fails to meet its water quality standards because of effects of stormwater runoff from developed land. The rule imposes additional stormwater treatment controls on development in the watersheds of Urban Impaired Streams.

1.4.2 Cape Elizabeth Water Quality Status

The following is a summary of the waters in the Town’s Urbanized Area that receive point source discharges from the Town’s MS4 and each waterbody’s TMDL and impairment status. Table 1 shows the waters where the Town has MS4 discharges and their impairment status. The Table shows the number of MS4 outfalls (in parentheses) that discharge to each waterbody as of December 2020.

The following documents were reviewed in making these determinations:

- Statewide Bacteria TMDL (September 2009)

- Chapter 502 Direct Watersheds of Lakes Most at Risk from New Development and Urban Impaired Streams
- Impervious Cover TMDL (September 2012)
- Trout Brook Watershed Management Plan (December 2012)
- Trout Brook TMDL (October 2007)
- Final 2016 Maine Integrated Water Quality Report and Appendices (a.k.a. Maine 303(d) list)

Figure 1 shows the locations of the fresh waters and their status according to the 2016 303(d) list.

**Figure 1
Cape Elizabeth Fresh Water Impairment Status**

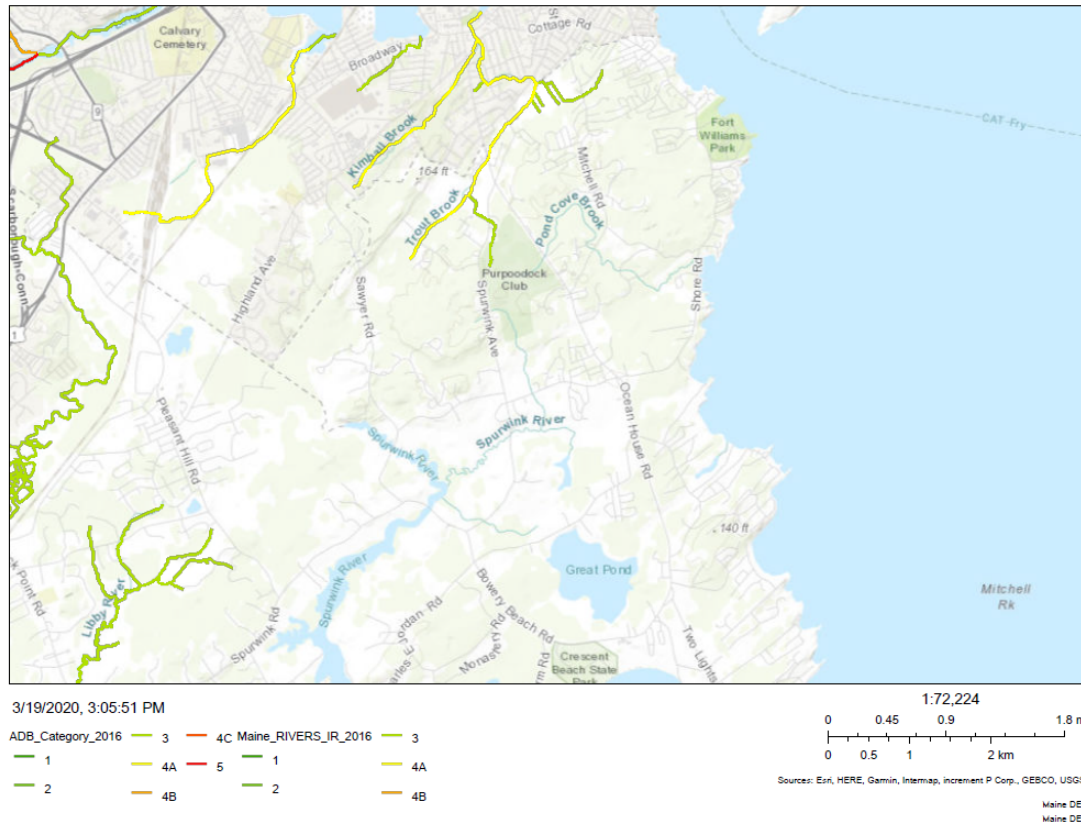
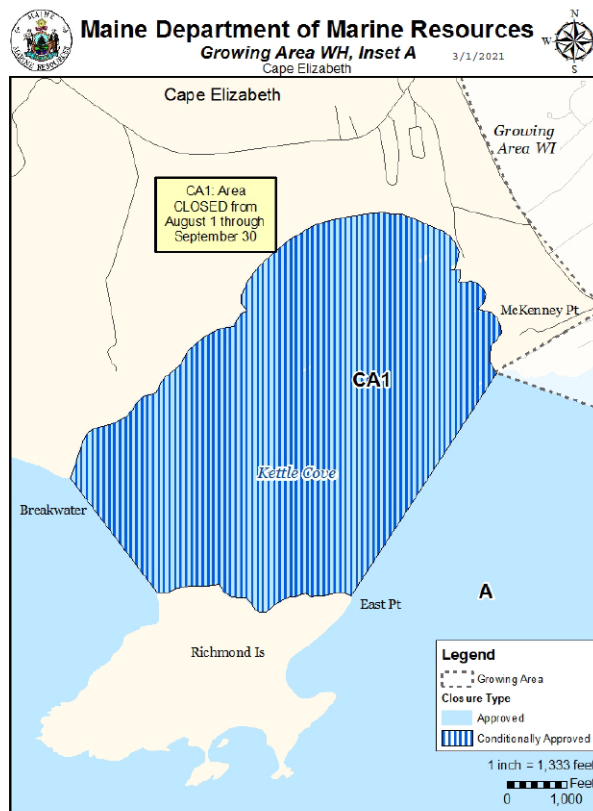
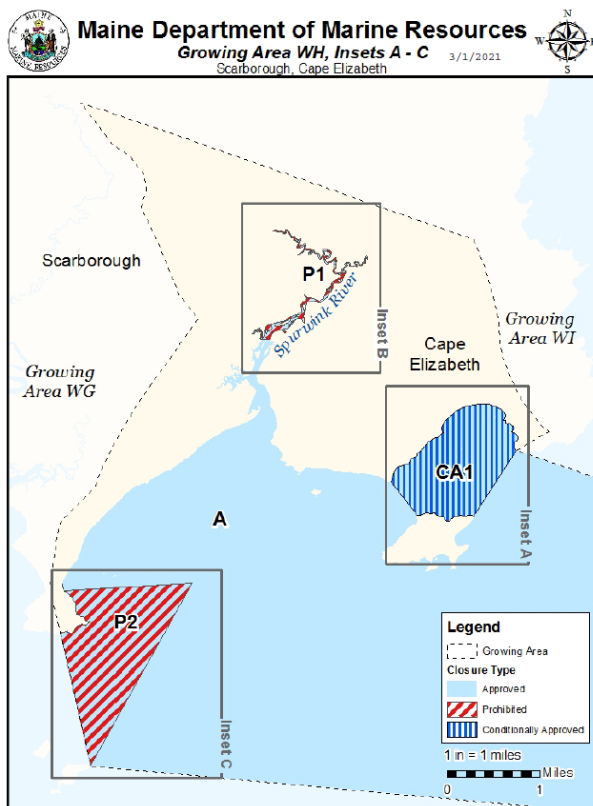


Figure 1 Fresh Water Impairment Status from 2016 303(d) list

(Taken from <https://maine.maps.arcgis.com/apps/webappviewer/index.html?id=dffb3d2b85904b18978d02fc9d913b5f>).

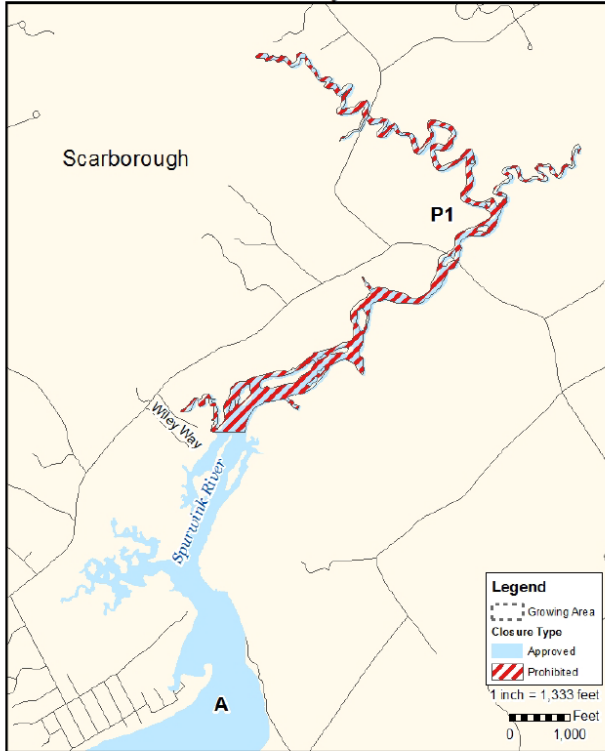
Figures 2a, 2b, 2c and 2d show the status of marine waters according to the Department of Marine Resources (from <https://www.maine.gov/dmr/shellfish-sanitation-management/closures/index.html>). Because DMR updated their designations and naming structure on 3/1/2021, the Figures reflect the new designations and naming structure and Table 1 shows both the new designation and the old DMR designation that was in effect when the 2022 MS4 General Permit was finalized on 10/15/2020.





Maine Department of Marine Resources
Growing Area WH, Inset B
 Scarborough

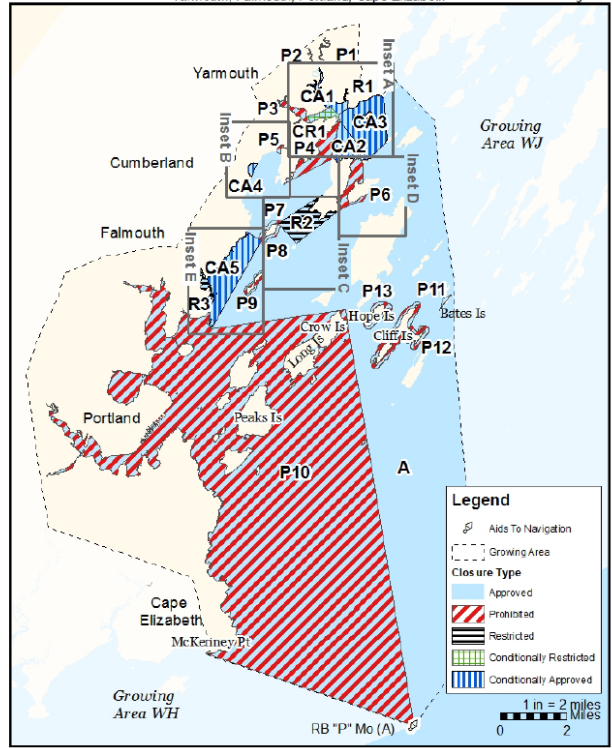
3/1/2021



This map is provided as a courtesy. Read the provided legal notice for closure details. Closures are not shown outside of the designated growing area. Maritime navigational aids are for reference only and are not suitable for maritime navigation.



Maine Department of Marine Resources
Growing Area WI, Insets A - E
 Yarmouth, Falmouth, Portland, Cape Elizabeth



This map is provided as a courtesy. Read the provided legal notice for closure details. Closures are not shown outside of the designated growing area. Maritime navigational aids are for reference only and are not suitable for maritime navigation.

Table 1 Status of Waterbodies Receiving MS4 Discharges – Cape Elizabeth Maine

Water bodies with MS4 discharges (# outfalls)	Maine DEP classification and numeric designation	DMR Area	Completed TMDLs (EPA approval date shown)	Urban Impaired Stream (Chapter 502)	Non-TMDL listing in 2016 303(d) list	Watershed Management Plan / Other Water Quality Document
Spurwink River Estuary (58 ditch + 86 piped outfalls)	811-4 SA/SB	WH (Prev. 12.A.1)	None	None	Cat. 5-B-1 Bacteria Only 2020 Shellfishing Prohibited Area	None
Western Casco Bay and islands (Atlantic Ocean) - Kettle Cove/Crescent Beach Area (6 outfalls)	811 - SB	WH (Prev. 12.B)	None	None	Cat. 5-B-1 Bacteria Only 2020 Conditionally Approved	None
Western Casco Bay and islands (Atlantic Ocean) – North of Two Lights (29 ditch + 90 piped outfalls)	804 – SA/SB	WI (Prev. 13.A.1)	None	None	Cat. 5-B-1 Bacteria Only 2020 Shellfishing Prohibited Area	The Ottawa Road Pump station, a private residence in Smugglers Cove, and Fort Williams have Overboard Discharge licenses.
Trout Brook (10 ditch + 38 outfalls)	ME0106000105_610R05 B (headwaters to Highland) and C (Sawyer Marsh)	-	Trout Brook/Kimball Brook TMDL 2007	Yes	None (Cat. 4a TMDL completed)	Watershed Management Plan 2012 And CFUP
Dyer Pond/Wetlands (1 ditch + 1 piped outfalls)	No designation - B	-	None	None	None	None
Great Pond (7 ditch + 9 piped outfalls)	5648 GPA	-	None	None	None	None
Alewife Brook (6 ditch + 3_ piped outfalls)	No designation SB from the ocean to a rock dam at Old Ocean House	WI (Prev. 13.A.1)	None	None	Cat. 5-B-1 Bacteria Only 2020 Shellfishing	The discharge pipe for Town's WWTP is at this location.

Table 1 Status of Waterbodies Receiving MS4 Discharges – Cape Elizabeth Maine

Water bodies with MS4 discharges (# outfalls)	Maine DEP classification and numeric designation	DMR Area	Completed TMDLs (EPA approval date shown)	Urban Impaired Stream (Chapter 502)	Non-TMDL listing in 2016 303(d) list	Watershed Management Plan / Other Water Quality Document
	Road, then B from Old Ocean House Road inland.				Prohibited Area	
Unnamed water (wetland) (1 outfall off Rt 77)	None	-	None	None	None	None

Table 1 shows the Town has one Urban Impaired Stream, which also has its own TMDL (Trout Brook) and several marine/estuarine waters that are listed on the 303(d) list for bacteria impairments. Note that the bacteria impaired waters used to be listed in the 2009 Bacteria TMDL but were re-categorized in 2016 to be category 5-B.1 (Needs TMDL) until such time as the Maine DEP can re-issue the Bacteria TMDL.

1.4.3 Progress on addressing impairments and approach to BMP development

Section 1.4.3 describes how impaired waters are addressed in this SWMP and provides some background on work the Town has done in recent years to improve water quality in these waters.

1.4.3.1 Discharges to Waters with TMDLs

As shown in Table 1, a TMDL was prepared for Trout Brook in September 2007. The TMDL covers a 1.8-mile segment from Ocean House Road (Route 77) to the Highland Avenue bridge in South Portland. The centerline of about 0.5 miles of this segment forms a portion of the boundary between South Portland and Cape Elizabeth. This segment is classified as Class C. The 2016 303(d) list shows the entire length of Trout Brook 2.93 miles, to be impaired as Category 4-A TMDL Complete because a Watershed Management Plan was completed in 2012 for the watershed, and restoration activities began.

The TMDL identified the primary sources of the impairment to be urban stormwater and established the TMDL Waste Load Allocation (WLA) to be 11% Impervious Cover (9% plus a 2% margin of safety). This 708-acre portion of the watershed was identified as having 15% IC by converting land use to % IC. To meet the 11% TMDL, a minimum of 28 acres of land require disconnection. The impervious cover evaluation was updated in the Watershed Management Plan as described in the next section.

The TMDL also included WLAs for lead and zinc, which are surrogates representing the complex mixture of metals in stormwater. The lead and zinc WLAs are based on the chronic stormwater quality Criteria at 20 mg/L hardness and stream flow. The lead WLA ranges from 0.000022 lbs./day at stream flows of 0.01 cfs to 0.33 lbs./day at stream flows of 15 cfs (Chronic SWQC = 0.41 ug/L). The zinc WLA ranges from 0.0016 lbs./day at stream flows of 0.01 cfs to 2.47 lbs./day at stream flows of 15 cfs (Chronic zinc SWQC = 30.6 ug/L).

The Waste Load Allocation in the TMDL is assigned entirely to the MS4 areas in South Portland and Cape Elizabeth (there are no non-MS4 areas in the watershed, and there are no other point source discharges in the watershed). However, no specific actions were required of MS4s to address these WLAs.

This is the only water in Cape Elizabeth with a TMDL that the Town's MS4 discharges into. Because Trout Brook is also an UIS, the 2022 MS4 General Permit requires the Town to

implement 3 BMPs to address the water's impairment therefore, no additional actions need to be taken to address the TMDL for this water.

1.4.3.2 Discharges to Urban Impaired Streams

This section describes the historical activities that have been undertaken and the current status of proposed and planned projects, which support the selection of 3 BMPs and their Measurable Goals as described in Section 2.7 of this SWMP.

As an Urban Impaired Stream, Trout Brook has received much attention over the past decade in order to attempt to correct the Brook's impairment. The City of South Portland and Town of Cape Elizabeth have completed several projects related to water quality improvement. The following is a brief timeline showing recent studies and projects since the TMDL was completed.

In 2009, Casco Bay Estuary Partnership (CBEP) conducted a fish barrier survey of culverts in the Trout Brook Watershed.

In 2011/2012, the City of South Portland and Cumberland County Soil and Water Conservation District (CCSWCD) developed a Watershed Management Plan for Trout Brook and Kimball Brook. The Town of Cape Elizabeth, Maine DEP, CBEP and residents were all active participants in generating the Plan. The Trout Brook Watershed Management Plan refined the understanding of the watershed beyond that which was included in the TMDL and included all portions of the watershed (not just the TMDL segment).

The refinement included re-evaluation of the %Impervious cover for the watershed and included an action plan that would correct more issues than just the impervious cover issue. The work included delineation of 31 individual catchments in the watershed and evaluated the impervious cover for each. 25 of the catchments contributed less than 2% of the watershed imperviousness, but the remaining 6 catchments were larger and comprised between 2.5% and 11.6 % of the watershed imperviousness. The results showed that the overall watershed was 12% IC, and the direct Trout Brook Watershed was 13.6%. To achieve the TMDL WLA, 14 acres of impervious cover would require treatment in the direct Trout Brook Watershed (or 36 acres of the larger overall watershed).

In addition to the impervious cover evaluation, the Watershed Management Plan summarized prior studies (a 2003 Culvert Assessment, the 2009 CBEP fish barrier survey) and a 2011 stream corridor assessment. The Plan reviewed all the action items recommended by prior studies and categorized and prioritized them. The Plan identified 5 Restoration Strategies which categorize the recommended actions to improve water quality so the water can meet its Class C standards.

1. Nutrient Reduction Practices
2. Stream Habitat Restoration
3. Chloride Reduction

4. Stormwater Treatment and Impervious Cover Reduction
5. Citizen Outreach

In 2014, the Town of Cape Elizabeth developed a Compensation Fee Utilization Fund Plan to hold funds to correct impairments created by developments in the Watershed (as allowed by Maine DEP Chapter 500). In Town collected \$25,000 from a subdivision which was created in in the watershed.

In 2013-2015, the Trout Brook Restoration Project Phase I was completed (DEP 319 funded project 2013RT08) which included removing invasive plants, replanting 565 feet of riparian area adjacent to the Brook using a Youth Conservation Corps, and conducting a pilot volunteer biomonitoring program for the Brook.

In 2016 Trout Brook Restoration Project Phase II was completed (DEP 319 funded project 2014RT08), which included installation of BMPs at 5 sites:

- rehabilitation of a church detention basin, and installation of a Focal Point Bioretention system to provide treatment for nutrients from parking lot prior to discharge to the Brook,
- Replacement of two failing culverts at an agricultural site (addressing erosion)
- Installation of a StormTree unit to provide treatment of 0.5 acres of impervious (road) surface on Boothby Avenue.

In 2020 Trout Brook Restoration Project Phase III was completed which included the following activities:

- at the Down Home Farm in the mid to upper portions of the watershed:
 - Construction of 720 feet of livestock fencing to prevent livestock access to the brook
 - Construction of a manure storage shed (for pigs),
 - Replacement of the irrigation pond outlet culvert, repair of its outlet control structure, and installation of a second culvert and overflow berm to increase oxygen in the stream
- planning for a rain garden at the Brown School roundabout was completed, but installation was not able to be completed because of Covid-19 social distancing restrictions.

As described above, many of the recommended actions have already been completed in the Trout Brook Watershed since the 2007 TMDL and the 2012 Watershed Management Plan were prepared. As each phase of restoration has been completed, a Non-Point Source (NPS) Tracking spreadsheet is updated showing which of the items recommended in the Watershed Management Plan have been completed. Each of the items in the NPS Tracker is listed as high, medium, or low priority.

The Town of Cape Elizabeth, City of South Portland, and Cumberland County Soil and Water Conservation District (CCSWCD) met on 1/6/2021 and 1/13/2021 to review the status of the

projects recommended by the Watershed Management Plan and discuss what additional work would benefit Trout Brook. An additional meeting was held with staff from the Maine DEP Watershed Assessment Division on 1/24/2021. Based on the meetings, CCSWCD reviewed and updated the Non-Point Source Tracker to reflect what projects have been completed to date. The discussions resulted in the following findings and recommendations:

1. The section of the stream that borders the two municipalities has several outstanding high and medium priority inadequate buffer sites (13, 15, 16 and 17) and stream corridor erosion sites (26, 27, 30, 31, 32 and 33). This section of the stream is listed as the impaired segment according to the TMDL. Many of these sites are located in residential back yards, and also had yard waste dumping so could benefit from public education on buffers, and erosion control, and best practices for landscaping. In addition, other segments on the Cape Elizabeth side of the Brook, could benefit from additional public education (the State Street area, where the Youth Conservation Corps planted buffers in 2016 may benefit from reminders about maintenance of their buffers and the Spurwink/Valley Road area has some residential properties that abut the Brook headwaters). The Town of Cape Elizabeth, South Portland and CCSWCD agreed public education would be a good BMP for the impaired water and will be implementing a shared public education BMP. This BMP would address two of the five restoration strategies identified in the WMP (1. Nutrient Reduction and 5. Citizen Outreach).
2. The Town is also committed to minimizing the impact of chloride on the Brook and has worked with the ISWG to develop a BMP that will be implemented regionally to address the chloride restoration strategy (3) in the WMP.
3. The group reviewed the recommended Stormwater Catchment Retrofit Recommendations to address the 4th restoration strategy in the WMP (4. Stormwater Treatment and Impervious Cover Reduction). The NPS tracking spreadsheet shows most of the high priority items have been addressed, but there were several medium priority items which still need to be addressed. After reviewing the remaining recommendations within the Cape Elizabeth Town boundary, most were identified as either low priority and low impact on the Brook, or they have been completed:
 - a. The following catchments are located outside the impaired segment: Catchments R, Y and F (in the headwaters Blueberry Road and Linwood Road, off Mitchell Road) were identified as low impact and low benefit. These are associated with outfalls 015A, 015B, 015C and 016, and are in a growth area for the Town.
 - b. Similarly, Catchment Z1 was identified as low impact and low benefit.
 - c. Catchment S (Waterhouse Road) – the issue identified in the WMP was addressed in 2016 by cleaning out vegetation and sediment at Outfall 013 on Waterhouse Road, revegetating and creating a new plunge pool.
 - d. Catchments M and O were addressed during Phase II of the WMP implementation at 29 Ocean House Road.

The following catchments have not been addressed and will be investigated and assessed for impervious cover disconnection or stormwater treatment as an UIS BMP:

- a. Catchment Z2 (Pleasant Ave) was not fully delineated at the time of the WMP but was rated as a medium benefit and medium impact to the Brook. The area has been mapped, and has disconnected infrastructure, ditches and swales, and a few catch basins with minimal subsurface piping. Though this catchment had low existing impervious cover, it is located in a growth area for the Town.
- b. Catchment G (Spurwink and Route 77) this catchment contributes runoff from the north side of Trout Brook through Outfall 014. It has multiple catch basins and a drainage ditch that contributes runoff. This catchment was identified as medium impact with potential medium benefit to the stream, but the area is highly developed, and the Town owns no land except for the roads. The Maine DEP indicated any infiltration BMPs in this area that receive road runoff would need be lined to prevent chloride infiltration to groundwater.
- c. Catchment E (State Street and Route 77) this catchment contributes runoff from the south side of Trout Brook through Outfall 14 (on Rt 77). This catchment was also identified as medium impact with potential medium benefit to the stream, but the area is highly developed, and the Town owns no land except for the roads.
- d. Catchment K (Waterhouse Road) – the WMP also identified that the outfall needs to be stabilized Outfall 012 on Bradford Road, low impact, low benefit, but the site is co-located with an erosion site. The Town does not currently have a paper easement for this outfall and would need to work with property owners to conduct any significant maintenance or make changes to the infrastructure.
- e. Catchment Q Wilton Lane – off State Street. The WMP recommended evaluation of installing a shallow paved swale and level spreader prior to allowing a single catch basin to discharge into the buffer (Outfall 15). (Low impact, medium benefit). The Town does not currently have an easement for this outfall and would need to work with property owners to conduct any significant maintenance or make changes to the infrastructure.

Some of the Catchments that remain to be addressed are co-located with Stream Channel Alteration sites, Inadequate Buffer sites, and Stream Corridor erosion sites.

The three recommendations described above (targeted public education, chloride reduction, and identification, design, and installation of a retrofit or treatment for one of the catchments) were developed into BMPs for the Urban Impaired Stream and are described in Section 2.7 of this SWMP. Because the Town does not own property in an around the catchments identified in the WMP it would be complicated to install water quality treatment systems or to disconnect impervious cover. So, the Town is including a more detailed review of buffer and stream corridor erosion sites as part of their BMP set in the event installation of a retrofit or treatment of a catchment is not feasible.

Figure 14 from the Trout Brook WMP is provided below, which shows the catchment areas described above.

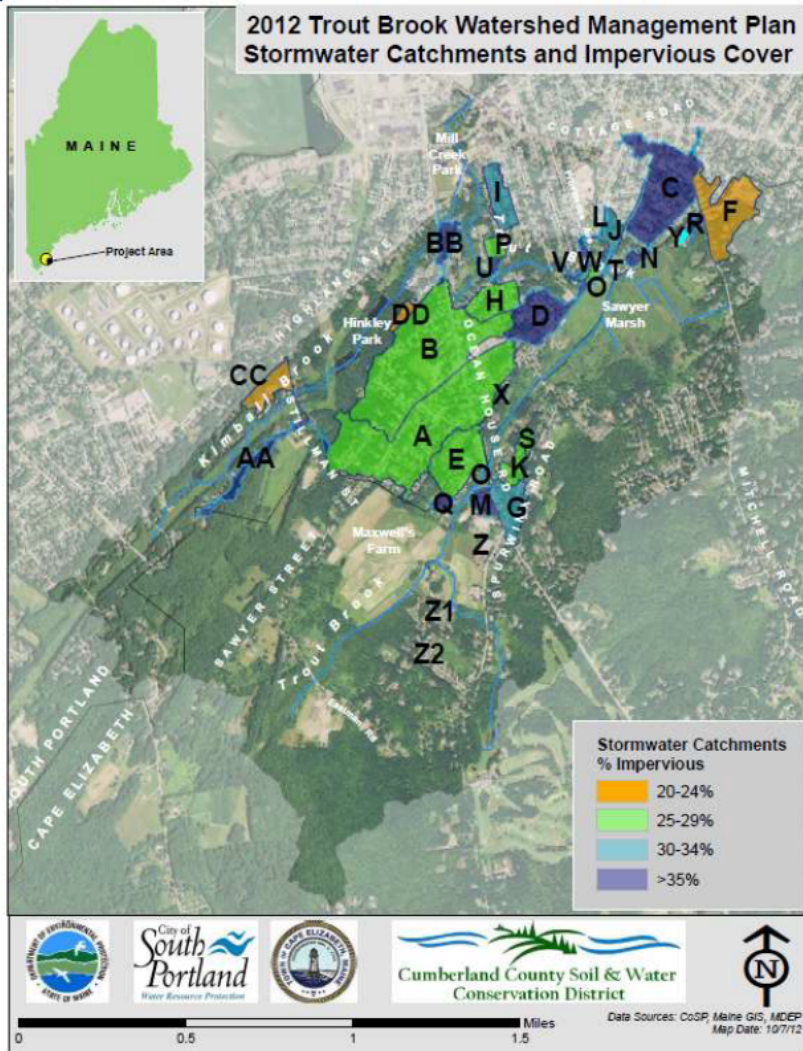


Figure 14. Trout Brook Watershed Outfall Catchments

1.4.3.3 Discharges to impaired waters that do not have TMDLs:

As required by the Fact Sheet to the 2022 MS4 General Permit, the Town consulted with the Maine DEP to assess what actions must be taken to address discharges to waters that do not have TMDLs but are impaired. Table 1 showed that several marine/estuarine waters fall into this category because of bacteria impairments that affect shellfishing. These waters are located in the Department of Marine Resources Growing Areas WH and WI (Previously referred to as Pollution Areas 12 and 13). As shown on Table 1, there are also three Overboard Discharges and the Cape Elizabeth Treatment plant discharge to these areas. These other discharges are licensed by the DEP, and their permits are written to prevent receiving water quality degradation.

These waters were originally listed in the Statewide Bacteria TMDL, but in 2016, the DEP moved the estuarine/marine waters to the 303(d) non-TMDL category until such time as they can update the Bacteria TMDL to provide more specific spatial data on which areas are included. Therefore the 2022 MS4 General Permit requirements do not apply to these 303(d) non TMDL waters, but the Statewide Bacteria TMDL does provide some guidance on how impairments in these areas should be handled by MS4s.

The Statewide Bacteria TMDL document does not specifically identify the sources of the bacteria impairments but encourages communities to pursue an action plan that is based on investigation of the source. MS4s are already required to conduct investigations of potential illicit discharges under MCM 3 IDDE.

The Statewide Bacteria TMDL document also requires that all sources of bacteria that are prohibited (such as failed septic systems or illicit discharges) be removed. It also requires that any sources of bacteria from allowed discharges (such as this MS4 permitting program) be restricted to concentrations equal to the water quality criteria. MS4s are already required to complete these activities under MCM 3.

In considering MCM 3 requirements, consultation with the Maine DEP on these non-TMDL waters revealed:

1. The DEP has not fully specified the root cause of the impairment, but suspects that stormwater is a contributing factor
2. That implementation of the IDDE elements of the MS4 General Permit (conducting outfall inspections, sampling outfalls during dry weather flow, and completing IDDE investigations to eliminate any bacterial sources), are sufficient to address the impairment until such time as the Bacteria TMDL document can be updated.

1.5 Priority Watersheds

Previous MS4 General Permits required that regulated MS4s identify a Priority Watershed and apply BMPs to that Watershed. The 2022 MS4 General Permit does not contain any specific

requirements related to Priority Watersheds. However, it does require that an MS4 have a procedure in place to prioritize watersheds when addressing illicit discharges. The Town of Cape Elizabeth uses this prioritization to identify where illicit discharge inspections are conducted first. The Town may also use the prioritization for illicit discharge investigations in the event there were insufficient resources to address all potential illicit discharges simultaneously. The IDDE Plan describes in more detail how the prioritization is applied.

The Maine DEP maintains a list of waters that are vulnerable to non-point source pollution, which is then available to receive grant funding under Sections 308(b) and 319 of the Clean Water Act as long as the funding is not used to satisfy the conditions of a Clean Water Act Permit (such as the 2022 MS4 General Permit). The list includes the MS4's "Priority Watershed".

MS4s should keep in mind that they may not use 319 grant funding to implement any BMPs required by the MS4 General Permit.

The town's two highest priority watersheds are: Trout Brook and the Spurwink River, because of their impairments.

During the previous permit cycle, the Town designated Trout Brook as its first priority and the Spurwink River as its second priority.

1.6 Obtaining Coverage to Discharge

As required, a Notice of Intent (NOI) to comply with the 2022 MS4 General Permit was submitted to the Maine DEP with this SWMP. A copy of the Town's NOI is provided in Appendix B.

A 30-day Public Notice was provided by both the Maine DEP and the Town to allow the public to comment on the SWMP. A copy of the Public Notice provided by the Town is contained in Appendix B.

Following review of the SWMP and NOI, and receipt of any public comments, the Maine DEP issued a permittee specific DEP Order, establishing terms and conditions that are enforceable in addition to the language in the 2022 MS4 General Permit which is also enforceable.

The permittee specific DEP Order was also subject to a 30-day public comment period, but only the DEP provided this public notice. DEP provided any updated information to the Town at the end of the public comment permit.

Once the DEP issued the final permittee specific DEP Order/authorization to discharge, the municipality had 60 days to update the SWMP to reflect any new or changed requirements and any comments. Maine DEP did request that this SWMP be resubmitted to them.

This SWMP has been updated in accordance with that requirement. The final permittee specific DEP Order is included in Appendix B. Any comments received are attached to the order.

The new permit conditions do not take effect until 7/1/2022.

1.7 SWMP Availability

The SWMP must be made available to the public by publishing on the Town Website. A copy must also be made available to the public at Town Hall.

If any of the following entities request a copy, one must be made immediately available to them:

- a) USEPA or Maine DEP,
- b) Any interconnected or adjacent MS4,
- c) Any owner or operator of a water supply company where the MS4 discharges to a water supply watershed, or
- d) Members of the public.

1.8 SWMP Modifications during the Permit Cycle

During the permit term (2022 to 2027), the SWMP must be kept current. As required by the 2022 MS4 General Permit, the Town will amend the SWMP if the Maine DEP or the Town determine that:

- a) The actions required by the BMPs fail to control pollutants to meet the terms and conditions of the 2022 MS4 General Permit and the permittee specific DEP Order;
- b) The BMPs do not prevent the potential for a significant contribution of pollutants to waters of the State other than groundwater;
- c) New information results in a shift in the SWMP's priorities.

If the changes are initiated by the Maine DEP, it will notify the Town, and the Town must respond in writing within 30 days of the notice explaining how it will modify the SWMP. The Town must then modify the SWMP within 90 calendar days of the Town's written response, or within 120 calendar days of the DEP notice (whichever is less). Any such modification must be submitted to the DEP for final review.

If the changes are initiated by the Town, the following processes apply (depending on the nature of the change as identified below):

- To modify any schedule identified in the permittee specific Department Order, the permittee must file an application on a DEP form with the Department that includes a

justification to formally modify the original permittee-specific Department Order.

- The permittee must allow the public the opportunity to comment on changes made to the SWMP a minimum of once per year.
- For BMPs in the SWMP that are not required to comply with the General Permit or the permittee specific Department Order, the BMPs and/or implementation schedule may be amended as appropriate without the need for public comment. Changes must be submitted to the Department in the Annual Report following the permit year the change(s) were made.

1.9 Annual Compliance Report and Record Keeping

By September 15 of each year, the Town will electronically submit an Annual Compliance Report for the Maine DEP's review using a standardized form provided by the Maine DEP. The Annual Compliance Report must be sent via email to the Municipal Stormwater Coordinator. As of June 2022, the Maine DEP Municipal Coordinator is:

Holliday.Keen@maine.gov (or current contact)
Municipal/Industrial Stormwater Coordinator
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

The Annual Compliance Report must include the following:

- a. The status of compliance with the terms and conditions of the 2022 MS4 General Permit and the Town's permittee specific DEP Order, based on the implementation of the Town's Plan for each permit year, an assessment of the effectiveness of the components of its stormwater management program, an assessment of the appropriateness of identified BMPs, progress towards achieving identified measurable goals for each of the MCMs and progress toward achieving the goal of reducing the discharge of pollutants to the MEP
- b. A summary of information collected and analyzed, including monitoring data, if any, during the reporting period.
- c. A summary of the stormwater activities the Town intends to undertake pursuant to its Plan to comply with the terms and conditions of the 2022 MS4 General Permit and the Town's permittee specific DEP Order during the next reporting cycle.
- d. A change in any identified BMPs or measurable goals that apply to the Plan.
- e. A description of the activities, progress, and accomplishments for each of the MCMs #1 through #6 including such items as the status of education and outreach efforts, public involvement activities, stormwater mapping efforts, the number of visual dry weather

inspections performed, the number of inaccessible and new outfalls, dry weather flow sampling events and laboratory results, detected illicit discharges, detected illicit connections, illicit discharges that were eliminated, construction site inspections, number and nature of enforcement actions, post construction BMP status and inspections, the number of functioning post construction BMPs, the number of post construction sites requiring maintenance or remedial action, the status of the permittee's good housekeeping/pollution prevention program including the percentage of catch basins cleaned, those catch basins cleaned multiple times and the number of catch basins that could not be evaluated for structural condition in a safe manner. Where applicable, the MS4 must quantify steps/measures/activities taken to comply with the 2022 MS4 General Permit and its Plan including reporting on the types of trainings presented, the number of municipal and contract staff that received training, the length of the training and training content delivered as well as any revisions to the SWPPP procedures and/or changes in municipal operations.

The Maine DEP will review the annual reports and provide comments to the MS4s. Changes to the report based on the Maine DEP's review comment(s) must be submitted to the Department within 60 days of the receipt of the comment(s).

The regulated MS4s must keep records required by the 2022 MS4 General Permit and permittee specific DEP Order for at least three (3) years following its expiration or longer if requested by the Maine DEP Commissioner. The regulated MS4s must make records, including this Plan, available to the public at reasonable times during regular business hours.

2 MINIMUM CONTROL MEASURES

2.1 **MCM 1 Education/Outreach Program**

The 2022 MS4 General Permit requires municipalities to develop and implement two Education/Outreach Campaigns to address stormwater issues of significance:

1. An Outreach to Raise Awareness Campaign targeted at two audiences applying three (3) tools per audience per year. One target audience must be the public and the second audience may be selected from: municipal, commercial, development/construction, or institutions.
2. An Outreach to Change Behavior Campaign to promote one behavior change directed at two audiences using a minimum of three (3) outreach tools per year. This campaign will promote and reinforce desirable behaviors designed to reduce stormwater pollution.

In 2018, the ISWG executed a statewide survey to assess public awareness of a variety of stormwater issues and related behaviors. The survey results report¹ was included in the ISWG Permit Year 5 (2017-2018) annual reports. In addition, the ISWG communities reviewed regional water quality related to stormwater issues, examined the unique conditions within each of their communities, and evaluated the needs for public education around stormwater at five of their regional meetings (9/13/2018, 3/21/2019, 7/18/2019, 3/26/2020, 5/21/2020). Based on the survey results and the discussions at their regional meetings, the ISWG communities agreed on which issues of significance to address and what tools and messages might be effective. Each of the BMPs provides a brief introductory section describing the rationale for the selection of the BMP based on the regional and local issues within the ISWG region. The BMPs are further structured to allow for adaptive education and outreach approaches to create a strong, diverse, and effective campaign over the duration of this permit.

The Town will fulfill the requirements for Public Education/Outreach through participation in the ISWG and the Town's provision of funding to the Cumberland County Soil & Water Conservation District (CCSWCD) for Public Education/Outreach services, as described in the following BMPs. The BMPs will be implemented according to their individual timelines over the term of the permit.

2.1.1 BMP 1.1 – Raise Awareness– General Public.

Responsible Party - Public Works Director (with implementation assistance from CCSWCD through participation in ISWG)

The 2022 MS4 General Permit requires the permittee to raise awareness of the public as well as one of the following groups: municipal, commercial, development/construction, or institutions.

¹ http://thinkbluemaine.cumberlandswcd.com/wp-content/uploads/2018/07/Survey_Summary-FINAL.pdf

This BMP describes the reasoning and measurable goals for the public audience and the selected second audience: development/construction.

Background for Measurable Goal 1.1a Public Audience: The Think Blue Maine campaign began in 2003 as a statewide effort to raise awareness of common stormwater pollutants and ways to prevent those pollutants. The Think Blue Maine campaign has been historically successful in increasing awareness of stormwater issues. The ISWG, Androscoggin Valley Stormwater Working Group (AVSWG), and Southern Maine Stormwater Working Group (SMSWG) coordinate their Think Blue Maine messaging and education efforts to provide consistent messaging in Southern Maine. In addition, the Massachusetts and New Hampshire small MS4s are using similar Think Blue campaigns, so there is some regionally consistent messaging in circulation.

In 2018, the ISWG executed a statewide survey around public awareness of stormwater issues and behaviors that impact stormwater. Ninety-four percent of survey respondents in the ISWG region ages 25 to 34 stated it was “very important to have clean water in the lakes and streams in [their] community”, and 86% of ISWG respondents ages 25 to 34 believe that stormwater runoff has a major impact or somewhat impacts water quality, but only 46% of ISWG respondents ages 25 to 34 were able to correctly describe what happens to stormwater at their residence. Because this age group has not been targeted before for education and has the potential to impact stormwater for many years into the future, the ISWG, AVSWG, and SMSWG communities will cooperatively use the Think Blue Maine campaign to raise awareness of the target audience to be more aware of stormwater issues and be more willing to change their behavior in the future.

Measurable Goal 1.1a – The Town, through its participation in the ISWG, will implement the following program which is designed to raise 15%² of the target audience’s awareness of what happens to stormwater at their residence or place of work. According to the 2019 US Census Bureau, the ISWG region’s population for ages 25 to 34 is approximately 38,000 people: therefore 15% of the target audience is approximately 6,000 people.

Target Audience: People 25 to 34 in the ISWG region

Overarching Message: “Water that lands on our roads, roofs, and other hard surfaces picks up pollutants and carries them to our local waterbodies without being treated.” This message will be presented with variations based on target audience interests and outreach tools used.

Outreach Tools: A minimum of three outreach tools will be selected from Appendix D Table 1 each year. Each tool will be assessed and customized based on the target audience’s receptiveness to the method. Any tool used in a given year will be tailored to the message for the relevant target audience subset based on common characteristics and/or demographics.

Evaluation: Effectiveness will be evaluated annually by tracking process indicators³ for

² As recommended in the EPA’s “Getting in Step: A guide for conducting watershed outreach campaigns” (2003), when 15 to 20 percent of an audience adopts a new idea or behavior, it will be able to permeate to the rest of the audience.

³ Indicators related to the execution of the outreach program.

each tool implemented that year and by tracking impact indicators⁴ where available (see Appendix D Table 1).

Implementation schedule: A minimum of three of the tools from Appendix D Table 1 will be implemented each year for the duration of the permit.

Adaptive Management: As part of the ISWG adaptive management education and outreach program, tools and messaging will be reviewed and evaluated on an annual basis at a minimum as part of annual reporting. To address emerging issues, opportunistic tools and outreach may also be implemented. Seasonal messaging and tool adjustments will be used when applicable. Report findings will be incorporated into ISWG meeting discussions as well as annual workplans and budgets.

Background for Measurable Goal 1.1b Development/Construction Audience: Evaluation of municipal stormwater programs, through annual meetings with municipal staff and officials, has revealed a large amount of effort required to comply with MCM 4 tasks. The ISWG communities identified opportunities to address common MCM 4 goals through coordinated regional and statewide stormwater education to contractors to reduce development and construction-related stormwater pollutants that are not already required by MCM 4. Due to the cyclical nature of the development/construction sector, a baseline evaluation will be conducted before or during Permit Year 1 to establish current Maine Department of Environmental Protection (DEP) Erosion and Sediment Control Certified Contractors. If contractors are certified by DEP in erosion and sediment control, their awareness of best practices is established.

Measurable Goal 1.1b – The Town, through its participation in the ISWG, will implement the following program which is designed to raise awareness of construction-related stormwater pollution by increasing the net number of DEP Certified contractors located in the ISWG region by 15% from the Permit Year 1 established baseline audience.

Target Audience: Contractors who are located within the ISWG region.

Overarching Message: “Through erosion and sediment control best management practices training and certification, contractors can reduce the potential to negatively impact local water bodies.”

This message will be presented with variations based on target audience interests and outreach tools used.

Outreach Tools: A minimum of three outreach tools will be selected from Appendix D Table 2 each year. Each tool will be assessed and customized based on the target audience’s receptiveness to the method. Any tool used in a given year will be tailored to the message for the relevant target audience subset based on common characteristics and/or demographics.

Evaluation: Effectiveness will be evaluated annually by tracking process indicators for each tool implemented that year and by tracking impact indicators where available (see Appendix D Table 2). Effectiveness will also be measured by the number of DEP certified contractors located in the ISWG region over the course of the permit term.

Implementation schedule: A minimum of three of the tools will be implemented from Appendix D Table 2 each year for the duration of the permit.

⁴ Indicators related to the achievement of the goals or objectives of the program.

Adaptive Management: As part of the ISWG adaptive management education and outreach program, tools and messaging will be reviewed and evaluated on an annual basis at a minimum as part of annual reporting. To address emerging issues, opportunistic tools and outreach may also be implemented. Seasonal messaging and tool adjustments will be used when applicable. Report findings will be incorporated into ISWG meeting discussions as well as annual workplans and budgets.

2.1.2 BMP 1.2 – Outreach to Change Behavior Campaign

Responsible Party - Public Works Director (with implementation assistance from CCSWCD through participation in ISWG)

Background for BMP 1.2: The ISWG communities have focused on changing behavior to reduce nutrients into regional waterbodies in their MS4 permit for the past three permit cycles. The ISWG communities will continue their efforts to reduce sources of nutrients by promoting proper dog waste disposal to two target audiences this permit term for the following reasons:

1. Generally, excess nutrients in our waters are a nationally recognized water quality issue related to stormwater – there are multiple common sources of nutrients including sediments, pet waste, septic systems, and fertilizers.
2. The Statewide survey conducted in Permit Year 5 of the previous cycle identified that survey respondents are aware that nutrient sources (including dog waste) are a common stormwater pollutant and respondents expressed a willingness to take action to help reduce stormwater pollution. Eighty-four percent of 2018 survey respondents in the ISWG region ages 25 to 34 and 67% of 2018 survey respondents in the ISWG region ages 35 to 55 selected “picking up pet waste and putting it in the trash” as a practice they believed could reduce water pollution.
3. Most ISWG communities are part of the Casco Bay watershed. In the June 2019 Casco Bay Nutrient Council report, nutrients were identified as the main pollutant of concern for the health of Casco Bay. While there is discrepancy between nutrient models as to the contribution percentages of the three main sources of nutrients (stormwater, wastewater, and atmospheric deposition), stormwater runoff is believed to contribute between 24% and 64% of the nitrogen entering Casco Bay.
4. Several ISWG communities have encountered problems with dog waste not being picked up⁵ or not being properly disposed of in the trash, causing local water quality concerns⁶ and unsanitary conditions for the public and municipal staff.
5. Most ISWG communities have taken steps to discourage improper dog waste disposal through ordinances. However, there are currently still barriers to effectively educating and enforcing these types of ordinances.
6. Dog owners ages 25 to 64 are the least likely age group to pick up after their dog⁷. However,

⁵<https://www.pressherald.com/2019/03/21/south-portland-raises-a-red-flag-over-dog-waste-problem-at-hinckley-park/>

⁶<https://www.pressherald.com/2019/08/30/south-portland-park-tests-positive-for-algae-that-can-harm-dogs/>

⁷ Hall, S.L. (2006 June) Survey on Poop: Half don't scoop; neighborhoods seeking solutions. *The News & Observer*, pp. B1.

dog owners age 25 to 64 receive their information through different outreach methods⁸. In order to provide effective messaging on proper dog waste management, two audiences will be created to allow appropriate outreach tools to be used per age group.

A baseline evaluation will be conducted in Permit Year 1 to establish dog owner behavior of dog waste disposal and the baseline target audience within the ISWG region.

Measurable Goal 1.2a – The Town, through its participation in the ISWG, will work towards changing the behavior of 15% of pet owners from the Permit Year 1 established baseline field survey findings.

Target audience: Dog owners ages 25 to 34 within the ISWG region

Overarching Message: “Dispose of dog waste as a solid waste, so it does not end up in our stormwater. Once in the stormwater, dog waste contributes nutrients, bacteria, and pathogens to our ponds, lakes, streams, rivers, and bays, which can lower property values, harm our drinking water, and hinder recreational and economic opportunities.”

This message will be presented with variations based on target audience interests and outreach tools used.

Outreach Tools: A minimum of three outreach tools will be selected from Appendix D Table 3 each year. Each tool will be assessed and customized based on the target audience’s receptiveness to the method. Any tool used in a given year will be tailored to the message of the relevant target audience subset based on common characteristics and/or demographics.

Evaluation: Effectiveness will be evaluated annually by tracking process indicators for each tool implemented that year and by tracking impact indicators where available (see Appendix D Table 3). Effectiveness will also be evaluated by conducting visual observational field surveys of improper dog waste disposal at public areas. These annual field surveys will be on established routes and will include geotagging of observed dog waste. Site factors such as signage, community litter cleanups, and other variables will also be documented. In addition, the presence of dog waste bags in catch basins will be recorded during annual inspections. In Permit Year 1 the field survey work will be supplemented by also observing the age groups utilizing the spaces and their pet waste disposal behavior in a subsample of the sites. This supplemental observation will be repeated in Permit Year 5.

Implementation schedule: A minimum of three of the tools from Appendix D Table 3 will be implemented each year for the duration of the permit.

Adaptive Management: As part of the ISWG adaptive management education and outreach program, tools and messaging will be reviewed and evaluated on an annual basis at a minimum as part of annual reporting. To address emerging issues, opportunistic tools and outreach may also be implemented. Seasonal messaging and tool adjustments will be used when applicable. Report findings will be incorporated into ISWG meeting discussions

⁸ <https://umaine.edu/undiscoveredmaine/small-business/resources/marketing-for-small-business/social-media-tools/social-media-statistics-details/>

as well as annual workplans and budgets.

Measurable Goal 1.2b – The Town, through its participation in the ISWG, will work towards changing the behavior of 15% of pet owners from the Permit Year 1 established baseline field survey results.

Target audience: Dog owners ages 35 to 55 within the ISWG region

Overarching Message: “Dispose of dog waste as a solid waste, so it does not end up in our stormwater. Once in the stormwater, dog waste contributes nutrients, bacteria, and pathogens to our ponds, lakes, streams, rivers, and bays, which can lower property values, harm our drinking water, and hinder recreational and economic opportunities.”

This message will be presented with variations based on target audience interests and outreach tools used.

Outreach Tools: A minimum of three outreach tools will be selected from Appendix D Table 4 each year. Each tool will be assessed and customized based on the target audience’s receptiveness to the method. Any tool used in a given year will be tailored to the message for the relevant target audience subset based on common characteristics and/or demographics.

Evaluation: Effectiveness will be evaluated annually by tracking process indicators for each tool implemented that year and by tracking impact indicators where available (see Appendix D Table 4). Effectiveness will also be evaluated by conducting visual observational field surveys of improper dog waste disposal at public areas. These annual field surveys will be on established routes and will include geotagging of observed dog waste. Site factors such as signage, community litter cleanups, and other variables will also be documented. In addition, the presence of dog waste bags in catch basins will be recorded during annual inspections. In Permit Year 1 the field survey work will be supplemented by also observing the age groups utilizing the spaces and their pet waste disposal behavior in a subsample of the sites. This supplemental observation will be repeated in Permit Year 5.

Implementation schedule: A minimum of three of the tools from Appendix D Table 4 will be implemented each year for the duration of the permit.

Adaptive Management: As part of the ISWG adaptive management education and outreach program, tools and messaging will be reviewed and evaluated on an annual basis at a minimum as part of annual reporting. To address emerging issues, opportunistic tools and outreach may also be implemented. Seasonal messaging and tool adjustments will be used when applicable. Report findings will be incorporated into ISWG meeting discussions as well as annual workplans and budgets.

2.1.3 BMP 1.3 – Effectiveness Evaluation

Responsible Party - Public Works Director (with implementation assistance from CCSWCD through participation in ISWG)

Measurable Goal 1.3a – The Town, through its participation in ISWG, will submit an annual

report each year of the 2022 MS4 General Permit term documenting the implementation of each BMP. The annual report will include the message for each audience, the methods of distribution, the outreach tools used, the measures/methods used to determine on-going effectiveness of the campaigns, and any changes planned based on the measures of effectiveness.

Measurable Goal 1.3b – In Permit Year 5 of the 2022 MS4 General Permit the Town, through its participation in ISWG, will conduct an evaluation of the overall effectiveness of the Awareness and Behavior Change BMPs (BMPs 1.1 and 1.2). The evaluation will be a review of the annually reported benchmark values for the Awareness and Behavior Change BMPs as well as documentation of overall changes during the permit term by comparing back to the established baselines.

- For Measurable Goal 1.1a, a survey will be conducted in Permit Year 5 to assess the target audience’s awareness of stormwater issues and what happens to stormwater at their residence or place of work and will be compared to the survey issued in 2018.
- For Measurable Goal 1.1b, the number of DEP Certified contractors located in the ISWG region in Permit Year 5 will be compared to the Permit Year 1 established baseline audience to determine the net number of new certified contractors aware of erosion and sediment control practices.
- For Measurable Goals 1.2a and 1.2b, the amount and presence of pet waste found in the ISWG region in Permit Year 5 field surveys will be compared to the established baseline field surveys conducted in Permit Year 1.

The evaluation will identify recommendations for future awareness and behavior change target audiences, messages, tools, and benchmarks.

2.1.4 BMP 1.4 – Optional Activities

Responsible Party - Public Works Director (with implementation assistance from CCSWCD through participation in ISWG)

This BMP describes activities that are not required by the 2022 MS4 General Permit but may be conducted by the Town to supplement the Education/Outreach program as time and funding allow.

Measurable Goal 1.4a – The Town will continue to support the Cumberland County Soil & Water Conservation District’s youth education curriculum to community schools as funding allows. Annual reports will include the total number of students reached, which schools were involved, and the lesson topics covered.

2.2 MCM 2 Public Involvement and Participation

The Town will fulfill the requirements for Public Involvement and Participation through participation in the ISWG and the Town's provisions of funding to Cumberland County Soil & Water Conservation District for Public Involvement and Participation services, or through directly fulfilling the requirements, as described in this section of the plan.

BMP 2.1 - Public Notice Requirement

Responsible party - - Public Works Director (with implementation assistance from CCSWCD through participation in ISWG)

Measurable Goal 2.1a – The Town will follow applicable state and local public notice requirements for their Stormwater Management Plans and Notices of Intent (NOIs) to comply with the MS4 General Permit. Copies of the NOIs and plans will be made available on the Town's website. The Town will document public meetings related to their stormwater program and attendance of those meetings in their annual report.

Measurable Goal 2.1b – The ISWG members meet as a group 6 times per year to review issues associated with implementation of the Stormwater Management Plan and MS4 General Permit. These meetings will be publicized through the CCSWCD website, on ISWG member websites, and open to the public.

BMP 2.2 - Host Public Events

Responsible party - - Public Works Director (with implementation assistance from CCSWCD through participation in ISWG)

Measurable Goal 2.2a – The Town will annually host, conduct, and/or participate in a public community event with a pollution prevention and/or water quality theme from the list included in the 2022 MS4 General Permit or another activity approved by the DEP. Stormwater stewardship and educational messages and activities will be incorporated into the event. The event will be advertised on the Town's website, through the Town's and CCSWCD's social media accounts, and other Municipal and CCSWCD communication methods. The annual report will include a description of the event and the estimated attendance/participation.

2.3 MCM 3 Illicit Discharge Detection and Elimination

The Town will continue to implement its Illicit Discharge Detection and Elimination (IDDE) program, which includes:

- A Watershed-based map of the stormwater infrastructure,
- A written IDDE Plan which describes:
 - Inspections of the infrastructure during dry weather (and monitoring of outfalls that flow during dry weather)
 - Investigations of potential illicit discharges,
 - Enforcement of the Non-Stormwater Discharge Ordinance
 - A Quality Assurance Project Plan
- Development of a list of outfalls that have the potential to cause illicit discharges during wet weather.

The following BMPs will be implemented to meet this Minimum Control Measure.

2.3.1 BMP 3.1 – Continue to Implement the Non-Stormwater Discharge Ordinance

Responsible Party - Public Works Director

Measurable Goal 3.1a – The Town implemented a Non-Stormwater Discharge Ordinance on July 13, 2005. The Ordinance is embedded in Chapter 25 Storm Water, of the Town’s Code of Ordinances. The Public Works Director enforces this ordinance with the assistance of the Code Enforcement Officer when needed. This ordinance provides the Public Works Director with the authority to issue letters of warning, notices of violation and/or fines. The Town will continue to enforce this ordinance throughout the permit cycle.

Measurable Goal 3.1b – The Town will document the results of enforcement actions taken for illicit discharges on an excel spreadsheet.

2.3.2 BMP 3.2 – Maintain the Written IDDE Plan

Responsible Party - Public Works Director

Measurable Goal 3.2a - The Town prepared a written IDDE Plan in 2013 which has been updated to contain the elements required in the 2022 MS4 General Permit (Part IV.C.3.b.i through vi). The updated plan is contained in Appendix E of this SWMP. The plan will be reviewed annually and updated if needed to reflect any changes to the program.

Measurable Goal 3.2b - The Town will conduct a wet weather assessment in accordance with the 2022 MS4 General Permit Part IV.C.3.f and will incorporate the wet weather assessment into their IDDE Plan by the end of Permit Year 5 (6/30/2027).

2.3.3 BMP 3.3 - Maintain Storm Sewer System Infrastructure Map

Responsible Party - Public Works Director

Measurable Goal 3.3a – The Town created a watershed-based map of the MS4 infrastructure during the first three permit cycles (2003-2022). The map shows the locations of stormwater catch basins, drain manholes, connecting surface and subsurface infrastructure showing the direction of pipe flow and the locations of stormwater outfalls. The infrastructure is documented in a Geographic Information System (GIS), which contains unique identifiers for outfalls and catch basins, as well as outfall material, size and receiving water. The map is updated annually as follows:

- The GIS geodatabase is updated to reflect changes to infrastructure based on inspections by Public Work Staff by June 30 each year,
- The GIS geodatabase is updated when as-built drawings become available for municipal infrastructure, and
- Paper maps are printed by June 30 each year.

2.3.4 BMP 3.4 – Conduct Infrastructure Inspections and Monitor Flowing Outfalls

Responsible Party - Public Works Director

Measurable Goal 3.4a – The Town will conduct infrastructure inspections for pollutants using the following frequency:

- One dry weather inspection will be conducted on each outfall at least once per permit cycle as required by the 2022 MS4 General Permit.
- Dry weather ditch inspections will be conducted whenever ditch maintenance work is anticipated
- Catch basins will be inspected for evidence of pollutants during their required sediment inspections (see BMP 6.4 for details).

Measurable Goal 3.4b – If an outfall is observed to be flowing during a dry weather inspection, the flow will be sampled and analyzed once per permit term using the methods described in the IDDE Plan unless it is exempt from dry weather investigations (as described in Part IV.C.3.e.vi of the 2022 MS4 General Permit). Outfalls sampled during dry weather will be handled as follows:

1. Outfalls where sampling and analysis reveals the potential for an illicit discharge: The Town will investigate the catchment area associated with the outfall for potential illicit discharges as described under Measurable Goal 3.5a.
2. Outfalls where sampling and analysis does not reveal the potential for an illicit discharge: The Town will document the dry weather flow as either uncontaminated groundwater, water from a natural resource, or an allowable non-stormwater discharge.

The Public Works Department will summarize either the monitoring results or the exempt status on the excel spreadsheet used for Measurable Goal 3.5a or in a GIS geodatabase. If the monitoring reveals the outfall has a potential illicit discharge, as described in the IDDE Plan, the outfall will be investigated as required under Measurable Goal 3.5a.

Attachment B of the Town's IDDE Plan (contained in Appendix E) describes the information collected electronically during infrastructure inspections. The Town documents the inspections electronically in the GIS.

2.3.5 BMP 3.5 – Conduct Investigations on suspect illicit discharges

Responsible Party - Public Works Director

Measurable Goal 3.5a – Whenever the Public Works Department becomes aware of a potential illicit discharge, it will investigate to identify the source using methods described in the written IDDE Plan (Appendix E). The Public Works Department will track the status and outcome of the investigations using an excel spreadsheet.

2.3.6 BMP 3.6 – Significant Contributors of Pollutants

Responsible Party - Public Works Director

Measurable Goal 3.6a - During the 2013-2022 Permit Cycle the Maine DEP identified that hydrant flushing was a potential contributor of pollutants to MS4s. The DEP published an issue profile providing water districts and departments guidance on how to meet ambient water quality standards for chlorine during hydrant flushing. The document was specifically designed for discharges to MS4s. In addition, the Maine Rural Water Association and Maine Water Utilities Association prepared a guidance document and training to show departments and districts how to meet the requirements of the issue profile.

The Town previously made annual requests to the Portland Water District to provide an annual report describing their hydrant flushing dechlorination processes, and the Town will continue to request that they provide the reports each year.

Measurable Goal 3.6b – If any of the following allowed non-stormwater discharges (in addition to hydrant flushing) are identified as significant contributors of pollutants to the MS4, the Town will work with the responsible dischargers to control these sources, so they are no longer significant contributors of pollutants.

- landscape irrigation
- diverted stream flows
- rising ground waters
- uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20))
- uncontaminated pumped ground water

- uncontaminated flows from foundation drains
- air conditioning and compressor condensate
- irrigation water
- flows from uncontaminated springs
- uncontaminated water from crawl space pumps
- uncontaminated flows from footing drains
- lawn watering runoff
- flows from riparian habitats and wetlands
- residual street wash water (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material has been removed and detergents are not used), and
- firefighting activity runoff (hydrant flushing is addressed in MG 3.6a)
- water line flushing and discharges from potable water sources
- individual residential car washing
- dechlorinated swimming pool discharges

2.4 MCM 4 Construction Site Stormwater Runoff Control

The Town will update, implement, and enforce its Construction Runoff Control Program for construction activities that disturb greater than or equal to one acre of land including projects less than one acre that are part of a larger common plan of development or sale as required by the 2022 MS4 General Permit through implementation of BMPs as described in this section.

In 2016, the Town modified its ordinances and consolidated most stormwater requirements into a new Chapter 25 Stormwater. Chapter 19 Site Plan Review also contains some requirements related to stormwater submissions. Overall, the Town's existing ordinances meet most elements of the Construction Site Stormwater Runoff Control MCM, but some modifications are required to meet the 2022 MS4 General Permit requirements. The following is a summary of the existing ordinance requirements that address this MCM:

The following sites are required to submit a sediment and erosion control plan to the Town for review and approval:

Large sites:

Any site subject to Site Plan Review is required to submit an Erosion Control Plan including details of erosion control methods used and written notes (Section 19-9-4 C.2.j). Sites that are subject to Site Plan Review include:

- New construction involving more than 10,000 square feet of impervious surface, paving, clearing, or vegetative alteration, or any combination thereof.
- The construction of any nonresidential building or building addition (regardless of size)
- Multiplex housing and eldercare facilities (regardless of size)
- Any Subdivision of land

Small sites:

Though not required by the 2022 MS4 General Permit, small development sites that are not subject to the Site Plan Review requirement to submit an Erosion Control Plan may fall under the Chapter 25, Section 25-1-6 requirement to control erosion. Section 25-1-6 states that even sites that are not required to submit an erosion control plan must use Best Management Practices for Erosion and Sedimentation control whenever a site will discharge stormwater into the Town's stormwater system. The Public Works Director has the authority to require additional BMPs at these sites if there is a reasonable expectation that stormwater runoff will cause erosion and sediment to leave the development site.

Cape Elizabeth Ordinances can be found at: [Ordinances - Town of Cape Elizabeth, Maine](#). The following BMPs will be implemented to meet this Minimum Control Measure.

2.4.1 BMP 4.1 – Erosion Sediment Control Ordinance

Responsible Party - Planner and Public Works Director

Measurable Goal 4.1a – The Town’s Site Plan Review Procedures (specified in the Town’s Zoning Ordinance Chapter 19, Section 19-9-4) already specify that any application for Site Plan Review contain an Erosion Control Plan. This requirement covers all sites that disturb one or more acres of land including projects less than one acre that are part of a larger common plan of development or sale as required by the 2022 MS4 General Permit.

The Town will update the Zoning Ordinance by 7/1/2023 to reference that the Erosion Control Plan meet a set of standards consistent with the applicable sections of Attachment C to the 2022 MS4 General Permit, (which are the same as the Maine DEP Stormwater Rule Chapter 500 Appendices A Erosion and Sediment Control, B Inspections and Maintenance, and C Housekeeping).

Measurable Goal 4.1b – Prior to the Zoning Ordinance update identified in Measurable Goal 4.1a, the Town will develop either on its own, or regionally, a set of standards consistent with the construction site requirements contained in Attachment C to the 2022 MS4 General Permit, (which are the same as the Maine DEP Stormwater Rule Chapter 500 Appendices A Erosion and Sediment Control, B Inspections and Maintenance, and C Housekeeping).

The standards will include a requirement to control waste such as discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality if passed through the storm drain system.

2.4.2 BMP 4.2 – Site Plan Review Procedures

Responsible Party - Planner and Public Works Director

Measurable Goal 4.2a – The Town’s Site Plan Review Procedures, which contain the required elements listed in the 2022 MS4 General Permit (consideration of potential water quality impacts, erosion control, waste storage, the ability for the public to comment at publicly noticed meetings and procedures to consider information submitted by the public), will continue to be implemented.

2.4.3 BMP 4.3 – Procedures for notifying construction site developers and operators

Responsible Party - Planner and Code Enforcement Officer

Measurable Goal 4.3a – The Town will continue notifying developers and contractors of requirements to obtain coverage under the MCGP and Chapter 500 for sites that disturb one or more acres of land using the following methods:

- Providing notices on the Planning Department and Code Enforcement Department webpages
- Requiring check box on building permit for sites that disturb one or more acres of

- land, and
- In discussions with applicants.

2.4.4 BMP 4.4 –Conduct and Document Construction Site Inspections

Responsible Party – Public Works Director

Measurable Goal 4.4a – The Town will continue implementing its procedure for construction site inspections which will be formalized in a written document by 7/1/2022. The written procedure will:

- Identify that third-party inspectors conduct these inspections
- Identify that the third-party inspector will review any inspection deficiencies with the contractor during or at conclusion of the inspection to allow for BMP repairs to be done no later than the next workday, additional BMPs to be added within 7 calendar days, and significant repairs to be completed within 7 calendar days and prior to any storm event (rainfall) and that:
 - The inspection reports are provided to the Public Works Director within 3 days of the inspection for any sites that require corrective measures, and within one week for any sites that do not require corrective measures.
- Require three inspections during active earth-moving phase of construction
- Require a minimum of one inspection annually until the project reaches substantial completion.
- Require a final inspection at project completion to ensure that permanent stabilization has been achieved and all temporary erosion and sediment controls have been removed, and
- Include use of the inspection elements of at least one of the construction inspection forms provided in Appendix F of this SWMP.

Measurable Goal 4.4b. The Town will document construction sites that trigger the ordinance using an excel spreadsheet each year. The spreadsheet will contain the site’s name, map and lot number, dates of inspections, and any enforcement actions and corrective actions taken.

2.5 MCM 5 Post-Construction Stormwater Management in New Development/ Redevelopment

The Town will implement a set of Low Impact Development strategies to prevent or minimize water quality impacts as described in BMP 5.1.

As described in BMP 5.2 the Town will continue to implement its Post Construction Stormwater Management Ordinance to address stormwater runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the Town's MS4 through implementation of the following BMPs.

The Town's current Ordinances contain some provisions to prevent or minimize water quality impacts from development in accordance with the requirements of the MS4 General Permit. A separate Stormwater Management Plan was created in 2015 for Town Center to identify green infrastructure and Low Impact Development practices that could be used in the Town Center District. This Town Center Stormwater Management Plan is incorporated into the ordinances also.

The following is a brief summary of the ordinance contents' as they relate to the MCM 5 requirements:

Chapter 19 Article IX Site Plan Review requires that

- stormwater be managed on-site and off-site without damage to streets, adjacent properties, downstream properties, soils, and vegetation,
- To the extent practical, the plan will retain stormwater on the site using the natural features of the site, except that in the Town Center District, stormwater management shall be consistent with the Town Center Stormwater Management Plan.
- a Low Impact Development method into stormwater management plan,

Chapter 25 requires that:

- Preparation and implementation of a Post Construction Stormwater Management Plan in accordance with Maine DEP Guidance,
- Execution and filing of a Maintenance Agreement for any infrastructure that will remain under private control,
- Submittal of an annual report documenting that all on-site BMPs have been inspected by a qualified inspector and are either functioning as intended or if they require maintenance and repair, a list of deficiencies, and documentation once they are corrected.

Cape Elizabeth Ordinances can be found at: [Ordinances - Town of Cape Elizabeth, Maine](#). The following BMPs will be implemented to meet this Minimum Control Measure.

2.5.1 BMP 5.1 – Implement strategies to prevent or minimize water quality impacts Responsible Party - Planner and Code Enforcement Officer

Measurable Goal 5.1a – The Town, either on its own or in partnership with other MS4s, will develop a Model LID Ordinance for stormwater management on new and redevelopment sites which establishes performance standards for each of the LID Measures listed in Table 1 of Appendix F of the 2022 MS4 General Permit.

The Model LID Ordinance will be submitted to the Maine DEP for review by September 1, 2022. The 2022 MS4 General Permit identified that the Maine DEP will post the Model LID Ordinance for public comment and will approve it, with or without modifications by November 1, 2022.

Measurable Goal 5.1b – Assuming the Model LID Ordinance and its required elements are approved by November 1, 2022, the Town will either adopt the Model LID Ordinance, or incorporate its required elements into the Town Ordinances on or before July 1, 2024.

2.5.2 BMP 5.2 – Maintain Post Construction Ordinance or Similar Measure

Responsible Party - Planner and Public Works Director

Measurable Goal 5.2a – During the 2008-2013 permit cycle, the Town passed a Post Construction Discharge Ordinance (effective April 8, 2010, currently Chapter 25 Stormwater) which requires that any site that disturbs one or more acres certify to the town annually by August 1 that they have inspected and maintained their stormwater BMPs. The town will continue to track:

- The cumulative number of sites that have post construction BMPs discharging into the permittee's MS4;
- The number of sites that have post construction BMPs discharging into the permittee's MS4 that were reported to the Town;
- The number of sites with documented functioning post construction BMPs; and
- The number of sites that required routine maintenance or remedial action to ensure that the post construction BMP is functioning as intended.

Measurable Goal 5.2b – By 7/1/2023, the Town's Post Construction Ordinance (Chapter 25) will be updated to state that for any sites reporting that maintenance is required:

- Deficiencies will be corrected within 60 days of identification and a record of the corrective action taken will be provided to the Public Works Director within the same 60-day period.
- If it is not possible to correct the deficiency and notify the Town within 60 days, the property owner will coordinate with the Public Works Director to establish an expeditious schedule to correct the deficiency and will provide a record of the corrective actions taken.

In coordination with the ordinance changes, the definitions in Chapter 25 will be updated to reflect the requirements of the 2022 MS4 General Permit.

2.6 MCM 6 Pollution Prevention/Good Housekeeping for Municipal Operations

The objective of this MCM is to mitigate or eliminate pollutant runoff from municipal operations on property that is owned or managed by the permittee and located within the 2000-2010 Urbanized Area through implementation of the following BMPs.

2.6.1 BMP 6.1 – Operations at Municipally Owned Grounds and Facilities

Responsible Party – Public Works Director

Measurable Goal 6.1a – During the previous MS4 permit cycle, the Town developed an inventory of municipal operations conducted in, on, or associated with facilities, buildings, golf courses, cemeteries, or parks and open space owned or operated by the town that have the potential to cause or contribute to stormwater pollution. The Town will review its inventory annually and updated it if needed.

Measurable Goal 6.1b – During the previous MS4 permit cycle, the Town developed and implemented Operation and Maintenance (O&M) Procedures for the municipal operations listed in their inventory that had the potential to cause or contribute to stormwater pollution. The town will continue to implement these O&M Procedures and will review and update the O&M Procedures annually to iteratively improve strategies and practices to eliminate or better control pollutant discharges.

2.6.2 BMP 6.2 – Training

Responsible Party – Public Works Director

Measurable Goal 6.2a – The Town will conduct annual training as follows:

- a. Train the Public Works (which includes transfer station and parks and recreation) employees annually in the Stormwater Pollution Prevention Plan and Grounds and Maintenance O&M Procedures.
- b. Train the Police and Fire employees annually in their respective O&M procedures

2.6.3 BMP 6.3 – Continue Street Sweeping Program

Responsible Party – Public Works Director

Measurable Goal 6.3a - Each permit year the town will continue to sweep all publicly accepted paved streets and publicly owned paved parking lots at least once a year soon after snowmelt.

2.6.4 BMP 6.4 – Cleaning of Catch Basins

Responsible Party – Public Works Director

Measurable Goal 6.4a – The Town will inspect its catch basins for sediment content at least once every two years and will clean catch basins that accumulate more than three inches of sediment.

Measurable Goal 6.4b – The Town will track which catch basins accumulate excess sediment (i.e., 50% or more of the sump contains sediment) to ensure those basins are inspected again the following year and cleaned if necessary. If a catch basin exhibits less than 25% sediment in its sump for two consecutive years, it is removed from the excess sediment list, and can be inspected again every two years.

Measurable Goal 6.4c – The Town will continue to beneficially re-use any catch basin grit that does not exhibit evidence of sewage, oil/grease, litter, or other pollutants in accordance with Maine DEP Solid Waste Management Rule 418 Beneficial Use of Solid Waste. Grit that exhibits evidence of pollutants will be profiled to assess its waste classification and disposed of at an appropriately licensed solid waste facility.

2.6.5 BMP 6.5 – Maintenance and Upgrading of Storm water Conveyances and Outfalls

Responsible Party – Public Works Director

Measurable Goal 6.5a – The Town will maintain and upgrade the stormwater conveyance systems based on the results of the catch basin, outfall, and ditch inspections, in accordance with the urgency of any needed repairs or maintenance. The Town continues to perform systematic capital upgrades of the storm drain system in correlation with the road paving program for the town. The Town also inspects and maintains its proprietary stormwater treatment systems using a qualified third-party inspector.

2.6.6 BMP 6.6 – Stormwater Pollution Prevention Plans (SWPPPs)

Responsible Party – Public Works Director

Measurable Goal 6.6a – During the last Permit Cycle, the Town prepared a SWPPP for the Public Works Facility and Recycling Center. The Town will amend the SWPPP to comply with the requirements specified in Part IV.C.6.d by 6/30/2022. In addition, the Town will amend the SWPPP within 30 calendar days of completion of any of the following:

- A change in design, construction, operation, or maintenance that may have a significant effect on the discharge or potential for discharge of pollutants including the addition or reduction of industrial activity,
- Monitoring, inspections, or investigations by the Town, local, state, or federal officials which determine the SWPPP is ineffective in eliminating or significantly minimizing the intended pollutants,

- A discharge occurs that is determined by the Maine DEP to cause or have the reasonable potential to cause or contribute to the violation of an applicable water quality standard.

Measurable Goal 6.6b - The Town will implement the plan throughout each Permit Year including conducting quarterly facility inspections using the Town's own form and visual monitoring using forms that contain the information required in Appendix E of the 2022 MS4 General Permit.

2.7 Impaired Waters BMPs

The Town's MS4 includes point source discharges to Trout Brook which is classified as an Urban Impaired Stream in Maine DEP Rule Chapter 502 and has its own TMDL dated October 2007. A Watershed Management Plan was completed for Trout Brook in 2012, and three phases of restoration projects have been completed in the watershed. The Town has been a partner in developing and implementing the Watershed Management Plan since it was developed, and as such has a good basis for understanding what additional steps should be taken to help correct the impairments. Details of the work completed to date are contained in Section 1.4 of this SWMP and set the framework for identification of the three BMPs that will be implemented to meet the Urban Impaired Stream and TMDL requirements of the 2022 MS4 General Permit.

2.7.1 BMP 7.1 – Minimize Chloride Contributions to Trout Brook

Responsible Party – Public Works Director

As identified in Section 1.4 of the Town's SWMP, chlorides have been identified as a stressor of Trout Brook in the Watershed Management Plan.

The Town has already taken several actions over the past few years to minimize their chloride contributions during deicing, will continue to implement the following chloride reduction practices which are also specified in the Maine BMP Manual for Snow and Ice Control, 2015:

- Annual review of appropriate application rates with crew at beginning of winter season
- Use of Ground Speed Control and Annual Equipment Calibration to ensure proper application rates
- Recalibration of equipment whenever major repairs are made
- Use of pavement temperature gauges to determine application rates
- Use of liquid (prewetting) to improve performance and to reduce "bounce and scatter" when applying sodium chloride, and
- Use of road weather information cameras/sensors, to assess real time conditions.

In addition, although there is a regional pilot program in Long Creek which targets chloride reduction by private applicators, there is still a need for a statewide program, additional public education around chlorides, and limited liability legislation for private applicators.

The Town will implement the following Measurable Goals related to chloride reduction in Trout Brook.

Measurable Goal 7.1a. At least one representative from the Town will attend an annual regional training or roundtable to learn about new chloride reduction techniques coordinated by the ISWG or another organization.

Measurable Goal 7.1b. The Town will complete the following actions to facilitate future reduction of chlorides through application by private contractors:

- In Permit Year 1, and alternating years thereafter until it passes, the Town will provide educational outreach regarding limited liability legislation to legislators and at least two other organizations representing firms that conduct application of chloride on private property. Although some municipalities are not allowed to testify in support or against proposed legislation, the Town can and will also provide comments on any drafted legislation and provide testimony (neither for nor against) at the committee level once drafted to help inform the review committee. The information provided will identify how chlorides affect water quality and how limited liability legislation will support a training, data collection, and certification program like the New Hampshire “Green Snow Pro” program or Minnesota’s Smart Salting Training Program for private applicators.
- In years when limited liability legislation has not passed and is not active for procedural reasons, the Town will provide winter maintenance education and outreach to the public. The messaging will be delivered using two tools per year selected from Appendix D Table 5.
- Should the legislation be successful:
 - The first year after it passes, the Town will provide awareness of its passage in the form of a presentation to the Select Board/Council.
 - Beginning the second and subsequent years after passage, the Town will educate property owners/managers, private contractors, and/or the public on winter maintenance practices to maintain public safety and protect the environment. These practices will be delivered using two tools per year selected from Appendix D Table 5.

2.7.2 BMP 7.2 – Targeted Behavior Change YardScaping 2.0

Responsible Party – Public Works Director

Measurable Goal 7.2a – As identified in Section 1.4 of the Town’s SWMP, public education was identified as a recommendation in the Trout Brook Watershed Management Plan. This BMP will provide targeted education to the residents living adjacent to Trout Brook in the following areas at a minimum: the section that is a border between South Portland and Cape Elizabeth (Waterhouse Road and Bradford Road), the State Street area that was retrofitted with buffers by the Youth Conservation Corps in 2016, and the Valley Road/Spurwink road area that abuts the headwaters.

The goal of the enhanced public education is to encourage the residents to improve their riparian zone by creating or improving and maintaining the riparian buffer with native species to minimize erosion, following proper yard waste practices, and implementing one of the YardScaping concepts. This BMP will incorporate targeted and regional outreach with other ISWG municipalities that have urban impaired streams. Within the ISWG municipalities with urban impaired streams, the following items will occur each year:

- One digital and one print outreach to residents within the UIS area designated above about ways to create, improve, and maintain their riparian zone.
- Offer four regional workshops on YardScaping and buffer BMPs (workshops will alternate

between communities with UIS each year).

- Product and plant recommendations will be identified at regional point of sale partners.

Surveys will be conducted immediately after workshops and then a follow up survey will be conducted after the next growing season to evaluate behavior changes of the target audience.

2.7.3 BMP 7.3 – Implement Impervious Cover Disconnection or Stormwater Treatment Responsible Party – Public Works Director

Review of the Watershed Management Plan recommendations related to Impervious Cover Disconnection or Stormwater Treatment revealed there are 5 catchment areas that may have retrofit or treatment opportunities. The Town will investigate, assess, design, and install either an impervious cover disconnection or stormwater treatment system in one of the catchment areas as described in the following measurable goals.

Implementation of BMP 7.3 will be contingent upon several factors including budget approvals and being able to obtain permits and easements on private property. Should BMP 7.3 prove to not be a viable BMP during any permit year, then the Town will report that in their annual report and will begin to implement Optional BMP 7.4 in the following permit year.

Measurable Goal 7.3a – During Permit Year 1, the Town will conduct site visits to several catchment, erosion, and inadequate buffer sites and evaluate them for current condition and potential for retrofits, repair and/or impervious cover disconnection. At a minimum the following sites will be visited: Catchment Z2 Pleasant Ave, Catchment G Spurwink and Route 77, Catchment E State Street and Route 77, Catchment K Waterhouse Road, Catchment Q Wilton Lane, and stream corridor erosion sites 26 and 27. The Town will write a memo summarizing the results of the evaluation and will select a site for design. The Town will report on the recommended project in their annual report.

Measurable Goal 7.3b – During Permit Year 2 the Town will [survey to confirm existing rights of way](#), prepare the [conceptual design and obtain any approvals and/or additional rights of way needed](#) for the recommended project.

Measurable Goal 7.3c – During Permit Year 3 the Town will [prepare the final design for the project and issue the project for construction bids](#).

Deleted: attempt to obtain the necessary permits and easements to construct the recommended projectprepare

Measurable Goal 7.3C – During Permit Year 4 the Town will construct the project.

Measurable Goal 7.3d – During Permit Year 5 the Town will begin inspection and maintenance on the completed project.

2.7.4 Optional BMP 7.4 – Enhanced Street Sweeping - To be implemented only in the event the Town deems BMP 7.3 to be infeasible.

Responsible Party – Public Works Director

Measurable Goal 7.4a – If for some reason BMP 7.3 cannot be implemented, the Town will conduct two additional rounds of street sweeping in the Trout Brook Watershed between the months of May and October each year that this BMP is in effect.

3 GENERAL REQUIREMENTS

3.1 Certification

The General Permit requires that this Plan be certified by either a principal executive officer or ranking elected official. This section provides the necessary 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 gathered and evaluated 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."

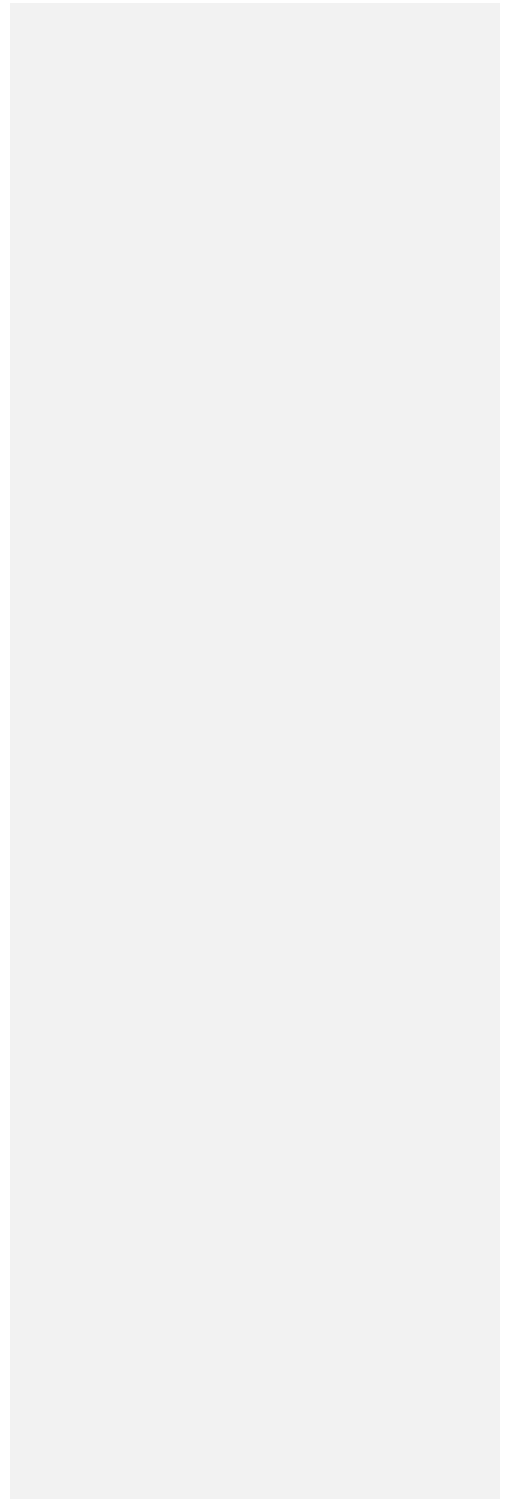
Signature: _____ Date: _____

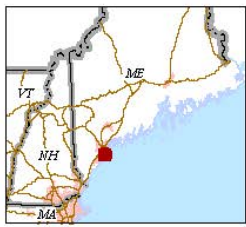
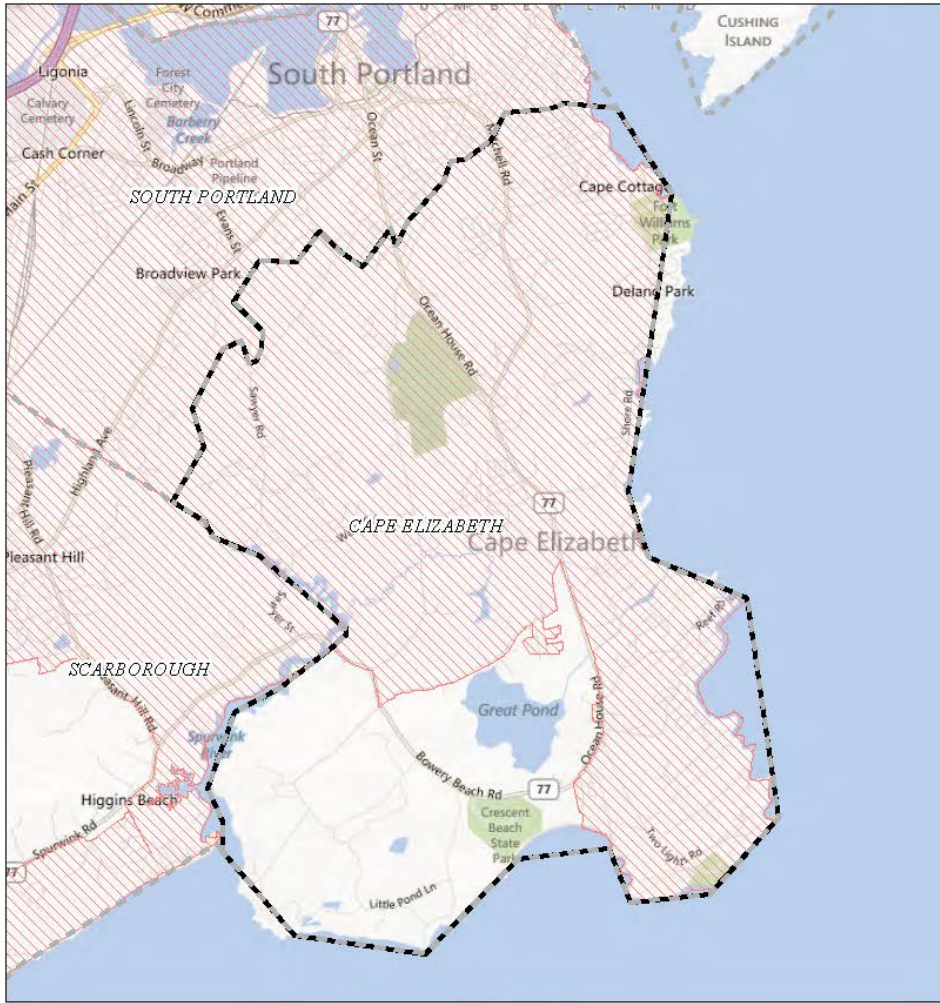
Matthew E. Sturgis

Title: Town Manager

APPENDIX A

URBANIZED AREA MAP

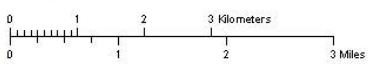




**NPDES Phase II Stormwater Program
Automatically Designated MS4 Areas**

Cape Elizabeth ME

 Regulated Area (2000 + 2010 Urbanized Area)



Town Population: **8816**
Regulated Population: **8425**
(Populations estimated from 2010 Census)



Urbanized Areas, Town Boundaries:
US Census (2000, 2010)
Base map © 2010 Microsoft Corporation
and its data suppliers

US EPA Region 1 GIS Center Map #8824, 11/19/2012

APPENDIX B

NOTICE OF INTENT and PERMITTEE SPECIFIC DEP ORDER



NOTICE OF INTENT TO COMPLY WITH MAINE GENERAL PERMIT FOR THE DISCHARGE OF STORMWATER FROM MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4)

PLEASE TYPE OR PRINT IN BLACK INK ONLY

PERMITTEE INFORMATION				
MS4 Entity	Town of Cape Elizabeth		Permittee ID #	MER041005
Name and title of chief elected official or principal executive officer	Matthew E. Sturgis, Town Manager			
Mailing Address	320 Ocean House Road			
Town/City	Cape Elizabeth	State	ME	Zip Code 04107
Daytime Phone	207-799-0881	Email	matthew.sturgis@capeelizabeth.com	
PRIMARY CONTACT PERSON FOR OVERALL STORMWATER MANAGEMENT PROGRAM (if different than PEO/CEO)				
Name and Title	Jay Reynolds			
Mailing Address	10 Cooper Drive			
Town/City	Cape Elizabeth	State	ME	Zip Code 04107
Daytime Phone	207-499-4151	Email	jay.reynolds@capeelizabeth.com	
STORMWATER MANAGEMENT PLAN (SWMP)				
Urbanized Area (sq. mi.)	10.6			
I have attached our updated SWMP with ordinances, SOPs, forms. <input checked="" type="checkbox"/>				
Name of streams, wetlands, or waterbodies to which the regulated small MS4 discharges (attach additional sheets as necessary): Spurwink River Estuary, Atlantic Ocean (Kettle Cove, Crescent Beach and areas north), Trout Brook, Dyer Pond, Great Pond, Alewife Brook, and unnamed streams and wetlands				
List of impaired waterbodies that receive stormwater from the regulated small MS4 (attach additional sheets as necessary): Spurwink River Estuary and Atlantic Ocean (portions of DMR areas 12 and 13), Trout Brook, and Alewife Brook				
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.				
Signature of Permittee	<i>Matthew E. Sturgis</i>		Date	3-12-2021

This NOI registration form must be filed with the Department at the following address:

Stormwater Program Manager
 Maine Department of Environmental Protection
 Bureau of Water Quality
 17 State House Station
 Augusta ME 04333-0017
Rhonda.Poirier@maine.gov

OFFICE USE ONLY				
Date Received	Staff	Date Accepted	Date Not Accepted	

Public Notice

**Notice of Intent to Comply with the
Maine General Permit
For the Discharge of Stormwater from
Municipal Separate Storm Sewer Systems**

The Municipality of Cape Elizabeth, Maine will file a Notice of Intent (NOI) to comply with the Maine General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems issued 10/15/2020 (MER041000 W009170-5Y-C-R) and an associated Stormwater Management Plan (SWMP) with the Maine Department of Environmental Protection. The NOI and SWMP will be filed on or about 3/31/2021. A copy may also be seen at the Cape Elizabeth Public Works Office and on the municipal website: www.capeelizabeth.org. The DEP will review the submittal and assess if it is complete for processing within 60 days of submittal. Once it has been deemed complete for processing, it will be made available on the Maine DEP website for 30-day public comment: <https://www.maine.gov/dep/comment/index.html>. A request for public hearing or request that the Board of Environmental Protection assume jurisdiction over this application must be received by the DEP, in writing, no later than 20 days after the application is found acceptable for processing. Requests must indicate the interest of the person filing the request and specify the reasons why a hearing is warranted. Unless otherwise provided by law, a hearing is discretionary and may be held if the Commissioner or the Board finds significant public interest or there is conflicting technical information. The NOI and SWMP are also available for viewing at the DEP Office in Augusta by scheduled appointment during normal business hours during the pandemic. Written public comments or requests for information may be made to the Division of Water Quality Management, Department of Environmental Protection, State House Station #17, Augusta, ME 04333-0017; telephone (207) 592-6233 and must include the name of the municipality filing the NOI and the Permit number provided above.

Public Notice Ran in the Portland Press Herald 3/14/2021



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

June 7, 2022

Mr. Matthew E. Sturgis
Town Manager
30 Ocean House Road
Cape Elizabeth, Maine 04107
e-mail: matthew.sturgis@capeelizabeth.com

**RE: Municipal Separate Storm Sewer System (MS4) General Permit #MER041000
Final - MER041005**

Dear Mr. Sturgis:

Enclosed please find a copy of your **final** MEPDES permit and Maine WDL which was approved by the Department of Environmental Protection. Please read this permit/license and its attached conditions carefully. Compliance with this permit/license will protect water quality.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

If you have any questions regarding the matter, please feel free to call me at 287-7693. Your Department compliance inspector copied below is also a resource that can assist you with compliance. Please do not hesitate to contact them with any questions.

Thank you for your efforts to protect and improve the waters of the great state of Maine!

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: Alison Moody, DEP/SMRO Lori Mitchell, DEP/CMRO Holliday Keen, DEP/CMRO
Irene Saumur, DEP/CMRO Damien Houlihan, USEPA Nathan Chien, USEPA
Richard Carvalho, USEPA Newton Tedder, USEPA Ivy Frignoca, FOCB

AUGUSTA 17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017 (207) 287-7688 FAX: (207) 287-7826	BANGOR 106 HOGAN ROAD, SUITE 6 BANGOR, MAINE 04401 (207) 941-4570 FAX: (207) 941-4584	PORTLAND 312 CANCO ROAD PORTLAND, MAINE 04103 (207) 822-6300 FAX: (207) 822-6303	PRESQUE ISLE 1235 CENTRAL DRIVE, SKYWAY PARK PRESQUE ISLE, MAINE 04769 (207) 764-0477 FAX: (207) 760-3143
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website: www.maine.gov/dep



STATE OF MAINE
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 17 STATE HOUSE STATION
 AUGUSTA, ME 04333

DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF CAPE ELIZABETH)	MUNICIPAL SEPARATE STORM
CAPE ELIZABETH, CUMBERLAND COUNTY, MAINE))	SEWER SYSTEM
MER041005)	MER041000
)	GENERAL PERMIT COVERAGE
APPROVAL)	RENEWAL

The Department of Environmental Protection (Department/DEP) has considered the Notice of Intent submitted by the TOWN OF CAPE ELIZABETH (Town/permittee), with supportive data, agency review comments and other related materials on file for coverage under the Municipal Separate Storm Sewer System (MS4) General Permit, #MER041000, issued by the Department on October 15, 2020 and revised on November 23, 2021, and FINDS THE FOLLOWING FACTS.

The permittee submitted a Notice of Intent (NOI) with an initial Stormwater Management Plan (SWMP) to the Department on March 30, 2021 that were made available for a 30-day public comment period on the Department's website at <https://www.maine.gov/dep/comment/comment.html?id=4463193>. No public comments were received on the NOI or the initial SWMP. The Department has reviewed the initial SWMP document and made the determination that the document is consistent with and fully articulates what is required to meet the MS4 GP standard. Pursuant to Part IV(B) of MS4 GP issued by the Department on October 15, 2020 and revised on November 23, 2021, the permittee must update the initial SWMP within 60 days of the effective date of this DEP permittee specific order or within 60 days of the final resolution to an appeal of this DEP permittee specific order. The final plan must be submitted to the Department and will be posted on the Department's website.

The permittee must fully implement the following Best Management Practices in accordance with their associated schedules of compliance, as established in the Modified Stormwater Management Plan that is in effect at the time any schedule for compliance is due:

- MCM 1 Education/Outreach Program: BMPs 1.1, 1.2, and 1.3:
- MCM 2 Public Involvement and Participation: BMPs 2.1 and 2.2
- MCM 3 Illicit Discharge Detection and Elimination: BMPs 3.1, 3.2, 3.3, 3.4, 3.5, and 3.6:
- MCM 4 Construction Site Stormwater Runoff Control: BMPs 4.1, 4.2, 4.3, and 4.4:
- MCM 5 Post-Construction Stormwater Management in New Development/Redevelopment: 5.1, and 5.2: and
- MCM 6 Pollution Prevention and Good Housekeeping for Municipal Operations: BMPs 6.1, 6.2, 6.3, 6.4, 6.5, and 6.6.

Impaired Waters

The permittee's MS4 includes point source discharges to Trout Brook which is classified as an Urban Impaired Stream (UIS) in Maine DEP Rule Chapter 502 and has its own TMDL dated October 2007. A Watershed Management Plan was completed for Trout Brook in 2012, and three phases of restoration projects have been completed in the watershed. To meet the standards of the MS4 GP for impaired waters, the permittee must also fully implement the following Best Management Practices in accordance with their associated schedules of compliance, as established in the Modified Stormwater Management Plan that is in effect at the time any schedule for compliance is due.

BMPs 7.1, 7.2, 7.3 and 7.4.

Modifications to the Initial Stormwater Management Plan required as a result of this Order, if any, must be provided to the Department in accordance with Part IV.B of the MS4 GP, and the Department will notify the permittee if further changes are required in accordance with Part IV.B.2.

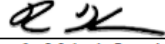
The permittee has agreed to comply with all terms and conditions of the MS4 General Permit, #MER041000, dated October 15, 2020 and revised on November 23, 2021. Operated in accordance with the Municipal Separate Storm Sewer System (MS4) General Permit, #MER041000, the discharges identified by the permittee will not have a significant adverse effect on water quality or cause or contribute to the violation of the water quality standards of the receiving water.

THEREFORE, the Department GRANTS the TOWN OF CAPE ELIZABETH, coverage under the Municipal Separate Storm Sewer System (MS4) General Permit, #MER041000, issued by the Department on October 15, 2020 and revised on November 23, 2021, subject to the terms and conditions therein.

This DEP permittee specific order becomes effective on July 1, 2022 and expires at midnight five (5) years after that date. If the GP is to be renewed, this DEP permittee specific order will remain in effect and enforceable until the Department takes final action on the renewal.

DONE AND DATED AT AUGUSTA, MAINE, THIS 7 DAY OF June, 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY:  _____
for Melanie Loyzim, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

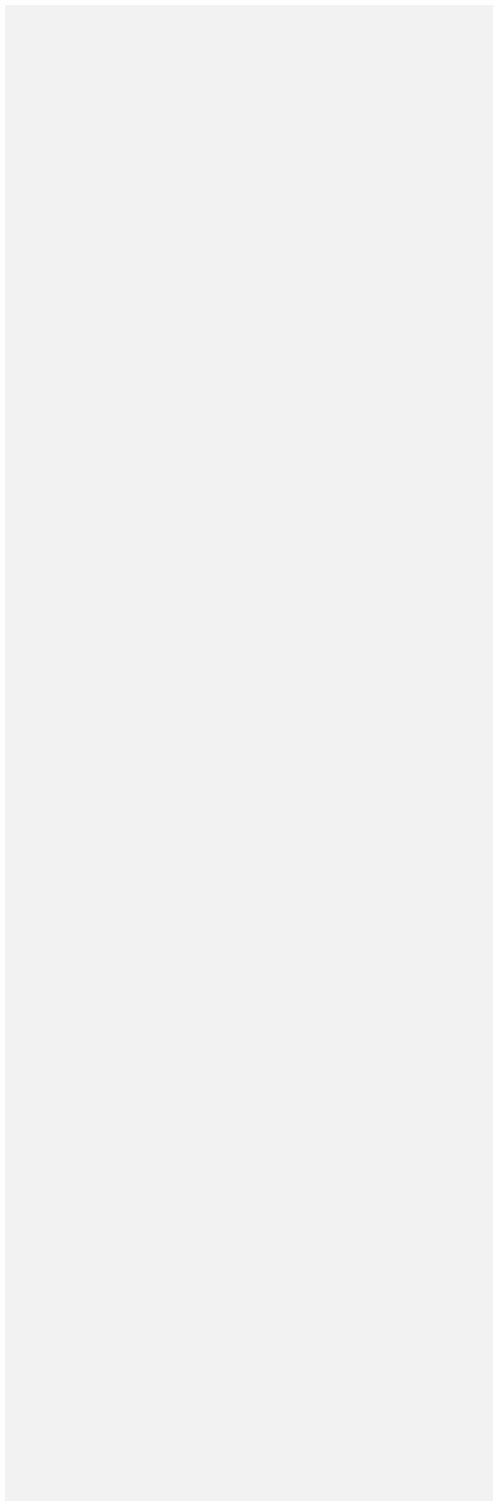
The Notice of Intent was received by the Department on March 30, 2021.

The Notice of Intent was accepted by the Department on April 5, 2021.

FILED
JUNE 7, 2022
State of Maine
Board of Environmental Protection

Date filed with Board of Environmental Protection: _____

This Order prepared by GREGG WOOD, BUREAU OF WATER QUALITY



RESPONSE TO COMMENTS

During the period of March 16, 2022 through the date of signature of this final agency action, the Department solicited comments on the draft MEPDES DEP permittee specific order. The Department did receive timely written comments from the permittee, the Friends of Casco Bay (FOCB) and the U.S. Environmental Protection Agency (USEPA). Responses to substantive comments are as follows:

Comment #1 (Permittee): The language in the draft order (italicized below) is potentially vague, which may lead to confusion about what steps are required for compliance.

“The permittee must fully implement all actions, schedules and milestones established in the March 31, 2021 initial SWMP and any revisions to the initial SWMP reflected in the final plan.”

Specifically, the permittee is concerned that in the SWMPs it may not always be clear what qualifies as mandatory “actions, schedules and milestones” and what does not. This is because the SWMPs were written broadly to, in addition to setting out specific and measurable actions, provide helpful context, educate officials and citizens about the Plan, and establish process, among other things. There is, therefore, significant text in the SWMPs that does not appear to be an action, schedule, or milestone, and thus would not be enforceable. The permittee is concerned that it will not always be clear exactly what is mandatory and what is not. Additionally, the permittee believes that the language about enforcing any additional revisions to the SWMP also may be somewhat unclear, given that SWMPs are living documents that are expected under the new MS4 general permit to evolve over time.

Response #1: The Department concurs with the permittee’s position on the purpose and enforceability of the SWMP as a stand-alone document. Part VI(E), *Relationship Between the SWMP and Permit Required Terms and Conditions* of the December 9, 2016 Federal Register states in relevant part “...under EPA small MS4 regulations, the details included the permittee’s SWMP document are not directly enforceable as effluent limitations of the permit. The SWMP document is intended to be a tool that describes the means by which the MS4 establishes its stormwater controls and engages in the adaptive management process during the term of the permit. While the requirement to develop a SWMP document is an enforceable condition of the permit (see §122.34(b) of the final rule) the contents of the stormwater management document itself are not enforceable as effluent limitations of the permit, unless the document or specific details within the SWMP are specifically incorporated by the permitting authority into the permit.”

Part VI(E), also states in relevant part “... the details of any part of the permittee's program that are described in the SWMP, unless specifically incorporated into the permit, are not enforceable under the permit, and because they are not terms of the permit, the MS4 may revise those parts of the SWMP if necessary to meet any permit requirements or to make improvements to stormwater controls during the permit term. As discussed in more detail below, the permitting authority has discretion to determine what elements, if any, of the SWMP are to be made enforceable, but in order to do so it must follow the procedural requirements for the second step under Sec. 122.28(d)(2).

The regulations envision that the MS4 permittee will develop a written SWMP document that provides a road map for how the permittee will comply with the permit. The SWMP document(s) can be changed based on adaptations made during the course of the permit, which enable the permittee to react to circumstances and experiences on the ground and to make adjustments to its program to better comply with the permit. The fact that the SWMP is an external tool and not required to be part of the permit is intended to enable the MS4 permittee to be able to modify and retool its approach during the course of the permit term in order to continually improve how it complies with the permit and to do this without requiring the permitting authority to review and approve each change as a permit modification.”

Comment #2 (Permittee): The General Permit does require that the SWMPs be updated and sent out for public comment annually and lays out a process for any other needed revisions. Multiple versions of the SWMPs should not be enforceable. The only version that should be enforceable is the version that is in force at the time a Best Management Practice or Measurable Goal is due. Accordingly, we recommend clarifying this provision to eliminate any potential confusion.

This will, in turn, promote compliance and lead to better water quality. To accomplish that, we note that our SWMPs have Best Management Practices (BMPs) with Measurable Goals and believe the second step order would be more clear if it references that we will fully implement those BMPs. This approach is consistent with Part III.A.8 of the GP which provides: “Following the public comment period on the NOI, the Department will issue a permittee specific DEP Order that establishes additional terms and conditions, including but not limited to, a list of required actions and corresponding schedules of compliance for a limited number BMPs associated with the implementation of this GP.” Thus, we suggest the following italicized text be incorporated into the final Order:

The permittee must fully implement the following Best Management Practices in accordance with their associated schedules of compliance, as established in the Modified Stormwater Management Plan that is in effect at the time any schedule for compliance is due:

*MCM 1 Education/Outreach Program: BMPs 1.1, 1.2, and 1.3:
MCM 2 Public Involvement and Participation: BMPs 2.1 and 2.2
MCM 3 Illicit Discharge Detection and Elimination: BMPs 3.1, 3.2, 3.3, 3.4, 3.5, and 3.6:
MCM 4 Construction Site Stormwater Runoff Control: BMPs 4.1, 4.2, 4.3, and 4.4:
MCM 5 Post-Construction Stormwater Management in New Development/Redevelopment:
5.1, and 5.2: and
MCM 6 Pollution Prevention and Good Housekeeping for Municipal Operations: BMPs 6.1,
6.2, 6.3, 6.4, 6.5, and 6.6.*

Impaired waters

The permittee's MS4 includes point source discharges to Trout Brook which is classified as an Urban Impaired Stream (UIS) in Maine DEP Rule Chapter 502 and has its own TMDL dated October 2007. A Watershed Management Plan was completed for Trout Brook in 2012, and three phases of restoration projects have been completed in the watershed. To meet the standards of the MS4 GP for impaired waters, the permittee must also fully implement the following Best Management Practices in accordance with their associated schedules of compliance, as established in the Modified Stormwater Management Plan that is in effect at the time any schedule for compliance is due.

BMPs 7.1, 7.2, and 7.3.

Should the budget for BMPs 7.1, 7.2, or 7.3 listed above not be approved, the Town must notify the Department as soon as it is aware of the lack of funding and begin implementing BMP 7.4 as written. The Department reserves the right to reopen this order to reestablish a scope of work and schedule for the implementation of alternate BMPs.

Modifications to the Initial Stormwater Management Plan required as a result of this Order, if any, must be provided to the Department in accordance with Part IV.B of the MS4 GP, and the Department will notify the permittee if further changes are required in accordance with Part IV.B.2.

Response #2: The revisions cited above are acceptable to the Department and are consistent with Remand Rule in that "the permitting authority has discretion to determine what elements, if any, of the SWMP are to be made enforceable, but in order to do so it must follow the procedural requirements for the second step under Sec. 122.28(d)(2)." BMP7.4 has been referenced in the final DEP permittee specific order as it is considered an alternative BMP if the implementation of BMP7.3 is not feasible.

Part IV.B of the GP states in relevant part "Modified Stormwater Management Plan (SWMP). The permittee must implement and enforce a written (hardcopy or electronic) SWMP. The initial SWMP must be updated within 60 days of permit authorization to include how the permittee will meet all requirements of the DEP Order. The modified SWMP must include a summary of the comments received during the MS4s public comment period and any corresponding changes to the SWMP made in response to the comments received. The permittee must perform all actions required by the permittee specific DEP Order in accordance with the timelines in the permittee specific DEP Order. Unless otherwise specified by the Department in writing, the permittee must submit the updated SWMP to the Department indicating how the permittee has modified their SWMP to be consistent with the GP and permittee specific DEP Order. To modify the schedule established in the permittee specific DEP Order, the permittee must file an application on a DEP form with the Department that includes a justification to formally modify the original permittee specific DEP Order."

The final DEP permittee specific order has been modified accordingly.

Comment #3 (FOCB): From the outset, Friends of Casco Bay has advocated for a comprehensive general permit with all clear, specific, and measurable terms needed to comply with the Remand Rule. The rule, however, allows DEP to issue either a comprehensive general permit or a two-step general permit. A two-step general permit consists of a base general permit and a second permitting step that establishes additional permit terms and conditions. The two documents combined meet the MS4 permit standard. We request that future MS4 permits be issued as comprehensive general permits.

Response 3: The Department will take the FOCB's comment into consideration during the renewal of the MS4 GP in calendar year 2027 and consider renewing the permit as a comprehensive permit.

Comment #4 (FOCB): Because SWMPs are now second step orders, would DEP please clarify when a SWMP modification will be considered a minor permit modification that does not require public process and when SWMP modifications will be posted for public comment and process? Although the code of federal regulations spells this out, there has been much confusion throughout the permit renewal process, and clear guidance would be helpful.

Response #4: Based on the Responses #1 and #2 above, the entire SWMP is not an enforceable document. Specific BMPs under each MCM and or impaired waters section of the SWMP have been cited in this DEP permittee specific order and are enforceable. The 2022 MS4 General Permit is clear that MS4s must provide an opportunity for annual public comment on any changes to their SWMPs in Part IV(B)(2), and must provide notice to the DEP for any changes to schedules in the SWMP including a rationale for why there is a change. The Modified Stormwater Management Plan is self-implementing as this DEP permittee specific order states:

The permittee must fully implement the following Best Management Practices in accordance with their associated schedules of compliance, as established in the Modified Stormwater Management Plan that is in effect at the time any schedule for compliance is due.

If a party, during its annual review of an updated SWMP, wishes to object to modifications to the SWMP proposed by the permittee, it can petition the Department to remedy said objections to ensure the terms and conditions proposed in SWMP are consistent with the Clean Water Act and MS4 regulations.

Comment #5 (FOCB): Second step orders incorporate initial SWMPs that were written before the Board of Environmental Protection issued an order remanding the base general permit to DEP. In response to the order, DEP issued a permit modification that requires municipalities to adopt an ordinance that mandates the use of LID for new and re-development. The initial SWMPs uniformly contain terms relating to MCM 5 that do not comply with the BEP Order and subsequent permit modification. DEP should revise SWMPs and add all terms and schedules of compliance to second step orders to fully implement MCM 5 as set forth in the permit modification.

Response #5: All permittee's seeking coverage under the MS4 GP are subject to both the October 15, 2020 base general permit and the November 23, 2021 permit modification that mandates the use of LID for new and re-development. All permittees were copied on the final permit modification and are aware of the following language:

A. Low Impact Development

5. MCM5 - Post-Construction Stormwater Management in New Development and Redevelopment.

Each permittee must implement and enforce a program to address post construction stormwater runoff to the maximum extent practicable from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development that discharge into the MS4.

- a. *The permittee must implement strategies which include a combination of structural and/or non-structural BMPs appropriate to prevent or minimize water quality impacts as follows:*

On or before September 1, 2022, each permittee must develop a Model LID Ordinance for stormwater management on new and redevelopment sites which establishes performance standards for each of the LID Measures contained in Table 1 of Appendix F. The Model LID ordinance should, at a minimum, refer to Appendix F for guidance.

The Model LID Ordinance shall be submitted to the Maine DEP for review by September 1, 2022. DEP will post the model ordinance for public comments and approve it, with or without modifications, on or before November 1, 2022.

On or before July 1, 2024 each permittee shall adopt an ordinance or regulatory mechanism that is at least as stringent as the required elements of the Model LID Ordinance or incorporate all of its required elements into the permittee's code of ordinances or other enforceable regulatory mechanism.

Each permittee is aware these terms and terms are to be incorporated into the Modified Stormwater Management Plan to be submitted to the Department within 60 days of permit authorization. Therefore, this order remains unchanged.

Comment #6 (FOCB, USEPA) - To meet the measurable requirement, permittees must evaluate the effectiveness of actions to reduce stormwater pollution. Some of the second step orders contain terms that do not satisfy this standard. Our review focused on terms to reduce stormwater pollution to impaired waters. The BMPs that fail to satisfy the Remand Rule are BMPs that contain a budget caveat. BMPs to restore water quality to impaired waters must be implemented without reference to budget.

The modified base general permit requires permittees that discharge to an impaired water(s) to implement three clear, specific and measurable BMPs to restore water quality. Some second step orders condition the implementation of a BMP on the passage of a budget. If the permittee does not pass a budget to fund the BMP, then the permittee does not have to implement it. Recommending but not executing BMPs does not restore water quality. Nor does it meet the mandate that second step orders require municipalities to implement three BMPs for each impaired water. Finally, it is troubling policy to treat permittees inconsistently. DEP should remove the budget caveat from second step orders. If budget becomes an issue, permittees could propose alternate and equally effective BMPs to DEP that could be considered through a permit modification.

The proposed authorization letters for four permittees contain conditions that are only imposed on the permittee if the necessary funding is in place to complete such action through the passing or approval of a budget. Such conditions are inconsistent with the Clean Water Act (CWA) Section 402 and National Pollutant Discharge Elimination System (NPDES) implementing regulations, including MS4 permit requirements to "include permit terms and conditions to reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Terms and conditions that satisfy the requirements of this section must be expressed in clear, specific, and measurable terms." See 40 C.F.R. § 122.34(a). Permit conditions that are contingent upon budget approval are not clear, specific, and measurable and are otherwise inconsistent with the CWA and the MS4 regulations. EPA recommends re-wording these conditions to remove all references to budget or funding.

Response #6 – The language cited by the commenters has been removed from the March 16, 2022 draft DEP permittee specific order. As stated by the FOCB, if budget becomes an issue in implementing a BMP, permittees could propose alternate and equally effective BMPs to the Department that could be considered through a permit modification.

Comment #7 (FOCB): To meet the measurable requirement, permittees must evaluate the effectiveness of actions to reduce stormwater pollution. Some of the second step orders contain terms that do not satisfy this standard. Our review focused on terms to reduce stormwater pollution to impaired waters. The BMPs that fail to satisfy the Remand Rule include the Long Creek BMP. Second step orders for MS4s that discharges to Long Creek must be modified to include clear, specific and measurable BMPs.

The Long Creek watershed is located in the MS4 municipalities of South Portland, Westbrook, Portland and Scarborough. Long Creek is impaired by urban development which has altered stream beds and flows, covered much of the landscape with impervious surfaces, and delivered slugs of pollution to Long Creek including excessive chlorides from winter application of road salt. Using residual designation authority under the CWA, the State issued a general permit regulating stormwater discharges in these municipalities from MS4, commercial and industrial sources. In relevant part, the existing Long Creek permit replaced requirements of the 2013 MS4 Permit. The Long Creek general permit expired April 15, 2020 and has been administratively continued.

Part of the delay in reissuing the Long Creek permit may stem from the fact that EPA has advised DEP that the permit must be renewed with clear, specific and measurable terms commensurate with the Remand Rule. As written, the Long Creek permit is a very general permit supported with non-enforceable management plans.

MS4 municipalities:

[M]ay rely upon another entity to satisfy its NPDES permit obligations to implement a minimum control measure if:

- (1) The other entity, in fact, implements the control measure;
- (2) The particular control measure, or component thereof, is at least as stringent as the corresponding NPDES permit requirement; and
- (3) The other entity agrees to implement the control measure on the permittee's behalf.

In this case, the 2015 Long Creek general permit is not as stringent as the requirements of the 2022 MS4 Permit because it contains no clear, specific and measurable actions. Therefore, MS4 communities cannot rely on the 2015 Long Creek general permit to comply with the 2022 MS4 Permit. This may be easy to cure. DEP could review the Long Creek Restoration Project Plans and select three clear, specific and measurable actions to include in the South Portland, Portland, Westbrook and Scarborough second step orders.

Response #7: This comment is not applicable to the permittee as it does not discharge to Long Creek.

Comment #8 (FOCB): We had hoped that second step orders would encourage, where appropriate, the development and implementation of fertilizer ordinances to reduce nutrient pollution to urban impaired and threatened waters. For example, Portland seeks to implement a fertilizer ordinance under its pending Integrated Plan to reduce nutrient pollution. We had hoped this decision might be supported through the MS4 process.

Response #8: The Department agrees with the commenter that developing and implementing a fertilizer ordinance can be an effective BMP to reduce nutrient loading to surface water bodies. Short of formally adopting an ordinance, many of the permittees have developed BMPs in their SWMPs to address nutrient loading to surface water bodies by way of public education (MCM1 and MCM2), yard-scaping programs and watershed management plans.

Comment #9 (FOCB): To meet the measurable requirement, permittees must evaluate the effectiveness of actions to reduce stormwater pollution. Some of the second step orders contain terms that do not satisfy this standard. Our review focused on terms to reduce stormwater pollution to impaired waters. The BMPs that fail to satisfy the Remand Rule include the chlorides reduction BMP. The chlorides reduction BMP must be replaced with clear, specific and measurable actions that reduce chlorides pollution to the MEP.

Many urban impaired streams cannot be restored without reducing chlorides. To address this, some second step orders contain the following provision:

- a. At least one representative from the City must attend an annual regional training or roundtable to learn about new chloride reduction techniques coordinated by the ISWG or another organization.
- b. The permittee, solely or in combination with others, must;
 - Beginning July 1, 2022 and alternating years thereafter until it passes, provide educational outreach to legislators regarding limited liability legislation and at least two other organizations representing firms that conduct application of chloride on private property;
 - In years when limited liability legislation has not passed and is not active for procedural reasons, the City will provide winter maintenance education and outreach to the public using two tools from the City's Stormwater Management Plan.
 - The first year after legislation passes, the City must provide awareness of its passage in the form of a presentation to the Council.
 - Beginning the second and subsequent years after passage, the City must educate property managers, private contractors, and/or the public on winter maintenance practices to maintain public safety and protect the environment using two tools from the City's Stormwater Management Plan.

While well intended, this BMP does not satisfy the tenets of the CWA and Remand Rule. It is not a clear, specific, and measurable term designed to actually reduce stormwater pollution to the maximum extent practicable. It does not include narrative, numeric, or other types of requirements designed to reduce pollutant loads. Once a year training for municipal officials might be important, but without more, does not reduce pollution. Similarly, educating legislators might be laudable but is not a BMP for purposes of a CWA permit. There is no chlorides reduction bill before the legislature, and education efforts alone will not pass and implement such a bill. The concept is simply too attenuated to satisfy the Remand Rule.

DEP should strike the above-referenced chlorides reduction BMP from second step orders and replace it with direct actions municipalities can take to reduce chlorides to urban impaired waters. We have attached Appendix F from the NH MS4 Permit as guidance for the types of BMPs that might be included.

Response #9: The permittee's SWMP does contain language with direct actions municipalities can take to reduce chlorides to urban impaired waters such as the following:

The Town has already taken several actions over the past few years to minimize their chloride contributions during deicing, will continue to implement the following chloride reduction practices which are also specified in the Maine BMP Manual for Snow and Ice Control, 2015:

- *Annual review of appropriate application rates with crew at beginning of winter season*
- *Use of Ground Speed Control and Annual Equipment Calibration to ensure proper application rates*
- *Recalibration of equipment whenever major repairs are made*
- *Use of pavement temperature gauges to determine application rates*
- *Use of liquid (prewetting) to improve performance and to reduce "bounce and scatter" when applying sodium chloride, and*
- *Use of road weather information cameras/sensors, to assess real time conditions.*

These BMPs are direct actions that are clear, specific and measurable under the impaired waters section of the applicable SWMPs and are enforceable (see Response #4 of this order) as they are cited as BMP7.1 in the DEP permittee specific order.

In addition, the permittee's SWMP does state that educational outreach regarding limited liability legislation will be provided to legislators and at least two other organizations representing firms that conduct application of chloride on private property, regardless of whether or not legislation is passed to support chloride reduction. The information provided will identify how chlorides affect water quality and how limited liability legislation will support a training, data collection, and certification program like the New Hampshire "Green Snow Pro" program or Minnesota's Smart Salting Training Program for private applicators.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: August 2021

Contact: (207) 314-1458

SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of a licensing decision made by the Department of Environmental Protection's (DEP) Commissioner.

Except as provided below, there are two methods available to an aggrieved person seeking to appeal a licensing decision made by the DEP Commissioner: (1) an administrative process before the Board of Environmental Protection (Board); or (2) a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development ([33-A M.R.S. § 3451\(4\)](#)) or a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)) or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

A person filing an appeal with the Board should review Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#); and the DEP's [Rule Concerning the Processing of Applications and Other Administrative Matters \(Chapter 2\)](#), 06-096 C.M.R. ch. 2.

DEADLINE TO SUBMIT AN APPEAL TO THE BOARD

Not more than 30 days following the filing of a license decision by the Commissioner with the Board, an aggrieved person may appeal to the Board for review of the Commissioner's decision. The filing of an appeal with the Board, in care of the Board Clerk, is complete when the Board receives the submission by the close of business on the due date (5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board, as determined by the received time stamp on the document or electronic mail). Appeals filed after 5:00 p.m. on the 30th calendar day from which the Commissioner's decision was filed with the Board will be dismissed as untimely, absent a showing of good cause.

HOW TO SUBMIT AN APPEAL TO THE BOARD

An appeal to the Board may be submitted via postal mail or electronic mail and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection
c/o Board Clerk
17 State House Station
Augusta, ME 04333-0017
ruth.a.burke@maine.gov

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee; and if a hearing was held on the application, (3) any intervenors in that hearing proceeding. Please contact the DEP at 207-287-7688 with questions or for contact information regarding a specific licensing decision.

REQUIRED APPEAL CONTENTS

A complete appeal must contain the following information at the time the appeal is submitted.

1. *Aggrieved status.* The appeal must explain how the appellant has standing to bring the appeal. This requires an explanation of how the appellant may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions, or conditions objected to or believed to be in error.* The appeal must identify the specific findings of fact, conclusions of law, license conditions, or other aspects of the written license decision or of the license review process that the appellant objects to or believes to be in error.
3. *The basis of the objections or challenge.* For the objections identified in Item #2, the appeal must state why the appellant believes that the license decision is incorrect and should be modified or reversed. If possible, the appeal should cite specific evidence in the record or specific licensing criteria that the appellant believes were not properly considered or fully addressed.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license to changes in specific license conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those matters specifically raised in the written notice of appeal.
6. *Request for hearing.* If the appellant wishes the Board to hold a public hearing on the appeal, a request for hearing must be filed as part of the notice of appeal, and it must include an offer of proof regarding the testimony and other evidence that would be presented at the hearing. The offer of proof must consist of a statement of the substance of the evidence, its relevance to the issues on appeal, and whether any witnesses would testify. The Board will hear the arguments in favor of and in opposition to a hearing on the appeal and the presentations on the merits of an appeal at a regularly scheduled meeting. If the Board decides to hold a public hearing on an appeal, that hearing will then be scheduled for a later date.
7. *New or additional evidence to be offered.* If an appellant wants to provide evidence not previously provided to DEP staff during the DEP's review of the application, the request and the proposed supplemental evidence must be submitted with the appeal. The Board may allow new or additional evidence to be considered in an appeal only under limited circumstances. The proposed supplemental evidence must be relevant and material, and (a) the person seeking to add information to the record must show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process; or (b) the evidence itself must be newly discovered and therefore unable to have been presented earlier in the process. Requirements for supplemental evidence are set forth in [Chapter 2 § 24](#).

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, and is made accessible by the DEP. Upon request, the DEP will make application materials available to review and photocopy during normal working hours. There may be a charge for copies or copying services.

2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing the appeal.* DEP staff will provide this information upon request and answer general questions regarding the appeal process.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a stay of the decision is requested and granted, a licensee may proceed with a project pending the outcome of an appeal, but the licensee runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will acknowledge receipt of an appeal, and it will provide the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials admitted by the Board as supplementary evidence, any materials admitted in response to the appeal, relevant excerpts from the DEP's administrative record for the application, and the DEP staff's recommendation, in the form of a proposed Board Order, will be provided to Board members. The appellant, the licensee, and parties of record are notified in advance of the date set for the Board's consideration of an appeal or request for a hearing. The appellant and the licensee will have an opportunity to address the Board at the Board meeting. The Board will decide whether to hold a hearing on appeal when one is requested before deciding the merits of the appeal. The Board's decision on appeal may be to affirm all or part, affirm with conditions, order a hearing to be held as expeditiously as possible, reverse all or part of the decision of the Commissioner, or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, the licensee, and parties of record of its decision on appeal.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court (see [38 M.R.S. § 346\(1\)](#); 06-096 C.M.R. ch. 2; [5 M.R.S. § 11001](#); and M.R. Civ. P. 80C). A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See [38 M.R.S. § 346\(4\)](#).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

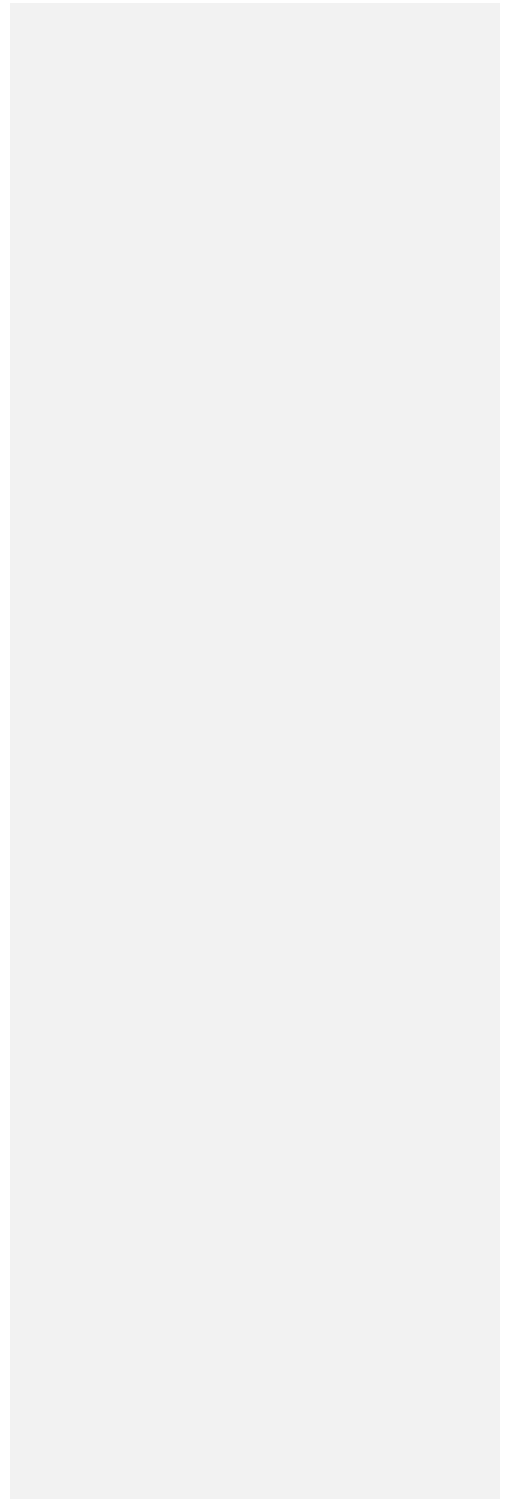
ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board Clerk at 207-287-2811 or the Board Executive Analyst at 207-314-1458 bill.hinkel@maine.gov, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

Note: This information sheet, in conjunction with a review of the statutory and regulatory provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal. The DEP provides this information sheet for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.

APPENDIX C

SUMMARY OF PUBLIC COMMENTS RECEIVED



The public comment period for the initial SWMP (offered by Maine DEP) lasted from 4/13/2021 to 5/12/2021. No Public comments were received during this time period.



[Municipal applications for permit coverage under the 2022 General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems \(MS4\).](#)

04/12/2021 12:08 PM EDT

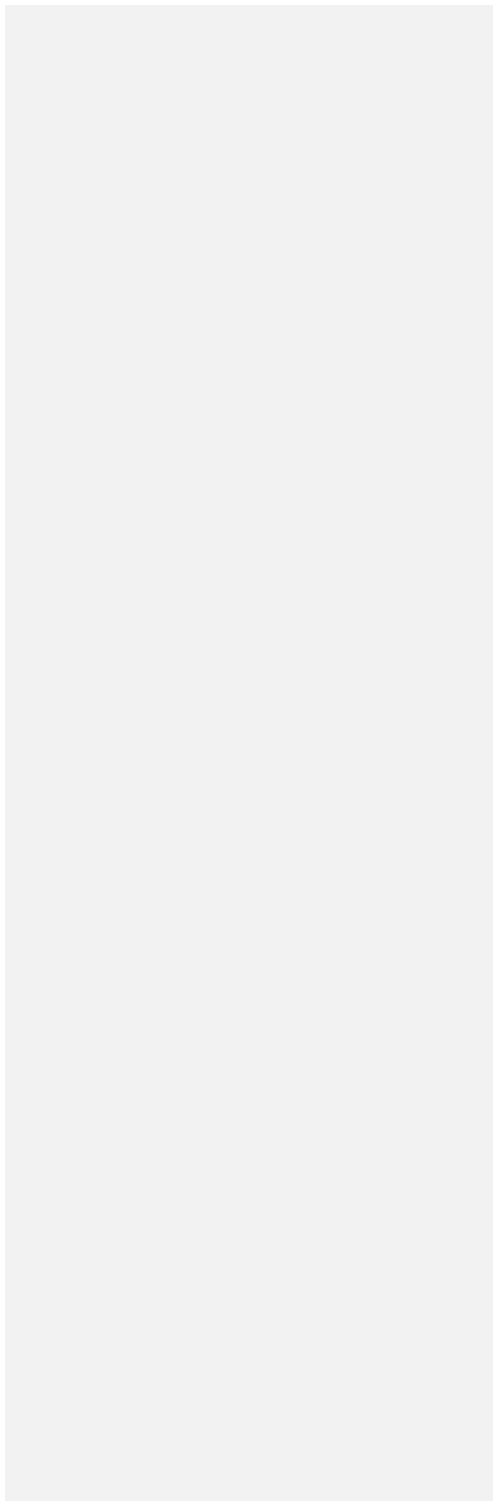
The Department is posting for public comment Municipal applications, including Notice of Intent to Comply (NOI) and Stormwater Management Plans (SWMP), for municipalities seeking coverage under the 2022 General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4).

Submit written comments to Rhonda Poirier rhonda.poirier@maine.gov by 5:00 p.m. May 12, 2021.

[Municipal NOI and SWMP files for comment.](#)

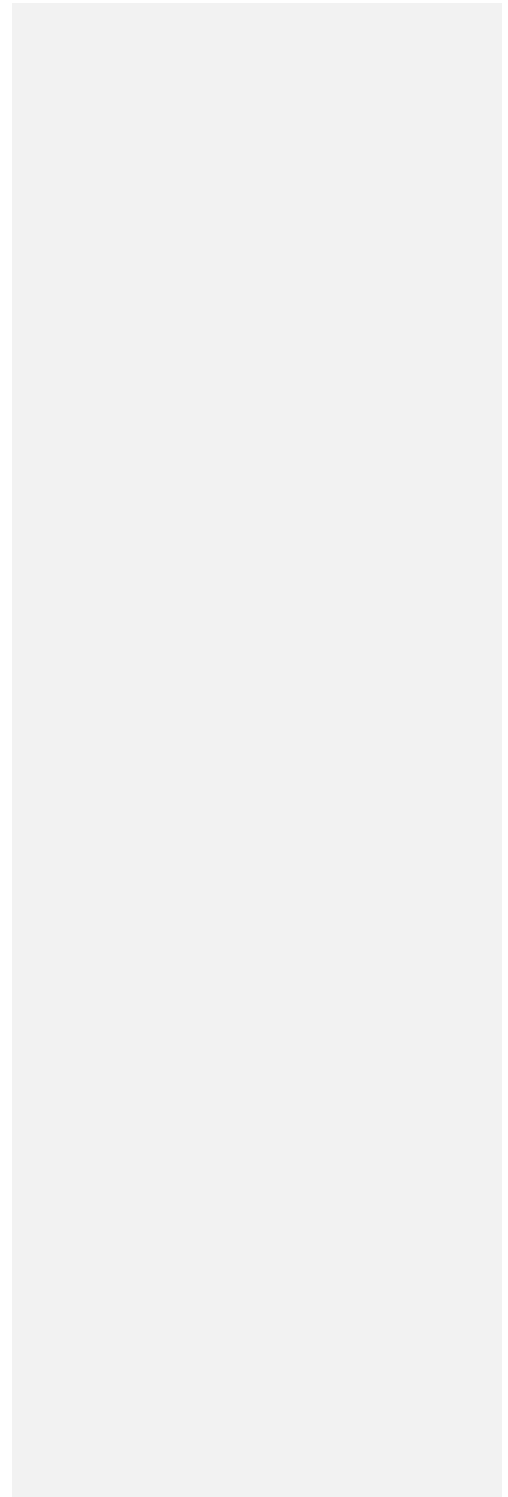
A request for public hearing must be received by the DEP, in writing, no later than 20 days after the application is found acceptable for processing. Requests must indicate the interest of the person filing the request and specify the reasons why a hearing is warranted. Unless otherwise provided by law, a hearing is discretionary and may be held if the Commissioner or the Board finds significant public interest or there is conflicting technical information.

The permittee specific DEP Order was issued for 30-day public comment on March 17, 2022. FOCB and the EPA commented and the response to comments is provided with the Final Order in Appendix B.



APPENDIX D

Education & Outreach Tools, Levels of Effort, and Effectiveness Benchmarks



Appendix D: Education & Outreach Tools, Levels of Effort, and Effectiveness Benchmarks

Table 1. Tools for Measurable Goal 1.1a. (People 25 to 34 in the ISWG region)

Outreach Tool	Minimum Level of Effort	Effectiveness Benchmark
Think Blue Maine Website Content	Semiannual updates to website content	Number of visitors to website
Social Media Post (each platform counts as separate tool)	12 posts	Amount of post engagement (e.g., reactions, comments, shares, etc.)
Social Media Ad (each platform counts as separate tool)	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Amount of ad engagement (e.g., reactions, comments, shares, link clicks, etc.) Number of people reached with ad
Social Media Video (each platform counts as separate tool)	3 videos	Amount of video engagement (e.g., views, reactions, comments, shares, etc.)
Online ad	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Number of people reached with ad Amount of ad engagement (e.g., link clicks)
Outreach Tabling	3 events	Number of interactions
Outreach partnership with local organization	3 content shares by partner organization	Number of people reached
Other DEP-approved tools	Minimum level of effort will be determined based on the tool	Effectiveness benchmark will be determined based on the tool

Table 2. Tools for Measurable Goal 1.1b. (Contractors located within the ISWG region)

Outreach Tool	Minimum Level of Effort	Effectiveness Benchmark
Factsheet	1 factsheet	Total number of factsheets distributed
Email Newsletter	4 email newsletters	Number of people reached with email Number of interactions with email (e.g., link clicks)
Municipal Website Content	Annual updates to website stormwater content	Number of visitors to stormwater webpage(s)
Think Blue Maine Website Content	Semiannual updates to website content	Number of visitors to website
Online ad	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Number of people reached with ad Amount of ad engagement (e.g., link clicks)
Webinar/Workshop	7 hours of training offered (multiple webinars/workshops may be offered to reach 7 hours)	Number of workshop attendees
Outreach partnership with local organization	3 content shares by partner organization	Number of people reached
Other DEP-approved tools	Minimum level of effort will be determined based on the tool	Effectiveness benchmark will be determined based on the tool

Table 3. Tools for Measurable Goal 1.2a. (Dog owners ages 25 to 34 within the ISWG region)

Outreach Tool	Minimum Level of Effort	Effectiveness Benchmark
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Targeted Social Media Post (each platform counts as separate tool)	12 posts	Amount of post engagement (e.g., reactions, comments, shares, etc.)
Targeted Social Media Ad (each platform counts as separate tool)	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Amount of ad engagement (e.g., reactions, comments, shares, link clicks, etc.) Number of people reached with ad
Targeted Social Media Video (each platform counts as separate tool)	3 videos	Amount of video engagement (e.g., views, reactions, comments, shares, etc.)
Outreach Tabling	3 events	Number of interactions
Outreach partnership with local organization	3 content shares by partner organization	Number of people reached
Item with branding/messaging	1 item with branding/messaging	Total number of items distributed
Other DEP-approved tools	Minimum level of effort will be determined based on the tool	Effectiveness benchmark will be determined based on the tool

Table 4. Tools for Measurable Goal 1.2b. (Dog owners ages 35 to 55 within the ISWG region)

Outreach Tool	Minimum Level of Effort	Effectiveness Benchmark
Story Walk	1 story walk	Number of QR code (or similar technology) scans from signs
Targeted Social Media Post (each platform counts as separate tool)	12 posts	Amount of post engagement (e.g., reactions, comments, shares, etc.)
Targeted Social Media Ad (each platform counts as separate tool)	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Amount of ad engagement (e.g., reactions, comments, shares, link clicks, etc.) Number of people reached with ad
Online ad	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Number of people reached with ad Amount of ad engagement (e.g., link clicks)
Outreach Tabling	3 events	Number of interactions
Outreach partnership with local retailer	50% of industry retailers in region participating	Number of local retailers participating
Item with branding/messaging	1 item with branding/messaging	Total number of items distributed
Other DEP-approved tools	Minimum level of effort will be determined based on the tool	Effectiveness benchmark will be determined based on the tool

Table 5. Tools for Measurable Goal 7.1b Minimize Chloride Contributions to Trout Brook.

Outreach Tool	Minimum Level of Effort	Effectiveness Benchmark
Municipal Roadside Message Board	3 messages	Amount of time message was displayed

Email Newsletter	4 email newsletters	Number of people reached with email Number of interactions with email (e.g., link clicks)
Municipal Website Content	Annual updates to website stormwater content	Number of visitors to stormwater webpage(s)
Social Media Post (each platform counts as separate tool)	12 posts	Amount of post engagement (e.g., reactions, comments, shares, etc.)
Social Media Ad (each platform counts as separate tool)	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Amount of ad engagement (e.g., reactions, comments, shares, link clicks, etc.) Number of people reached with ad
Online ad	Ad(s) run 90 days (multiple ads may be run for shorter durations to total 90 days)	Number of people reached with ad Amount of ad engagement (e.g., link clicks)
Newspaper Article	1 newspaper article	Number of people reached with article
Other DEP-approved tools	Minimum level of effort will be determined based on the tool	Effectiveness benchmark will be determined based on the tool

APPENDIX E

IDDE PLAN and QAPP

APPENDIX F

CONSTRUCTION INSPECTION FORMS

Construction Inspection Form for Sediment and Erosion Control

Site Name: Map/Lot:	Date of Inspection:
Inspector:	Inspection Time: AM/PM
Pictures Taken:	Weather:
Type of Inspection: Initial / Return / Winter Stabilization / Final Stabilization / Complaint / Other _____	

Inspection Parameters		Comments/Follow up Date
Description and estimate of construction area that is disturbed:		
Does contractor have Erosion and Sediment Control Plan, drawings, and inspection log on site?	Yes / No / NA	
Is the contractor or a third-party inspector conducting inspections after rain events and weekly as required by the Erosion and Sediment Control Plan for the site?	Yes / No / NA	
Is the construction entrance clean with no track out of sediment?	Yes / No	
Is waste properly managed (concrete washout disposed of properly, no liquids in waste container, waste containers closed)?	Yes / No	
Are there any petroleum or hazardous materials on site, and if so, are there spill controls in place?	Yes / No	
Review the site plan for sediment and erosion control requirements. Select "Pass" if structures are properly installed and functioning as required. Select "Fail" if contractor needs to make corrections or repairs and describe briefly repairs needed. Select "N/A" for "Not Applicable" if they do not apply at the site.		
Catch Basin Protection	Pass / Fail / NA	
Silt Fence /Hay bales	Pass / Fail / NA	
Erosion Control Berm or Sock	Pass / Fail / NA	
Dust Control	Pass / Fail / NA	
Dewatering	Pass / Fail / NA	
Other: _____	Pass / Fail / NA	
Any Areas of Repeated Non-compliance that require MDEP Notification?	Yes / No	
Any other comments?		