



MODIFIED

STORMWATER MANAGEMENT PLAN

FOR

TOWN OF FREEPORT, MAINE

MS4 General Permit Effective July 1, 2022
Initial Submittal to Maine DEP on March 31, 2021
Updated September 23, 2021 to address Maine DEP comments
Updated 6/21/2022 to incorporate Permit Modification and Department Order
Updated July 22, 2024 to correct errors and conflicts

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- B. Notice of Intent and Permittee-Specific Maine DEP Order
- C. Summary of Public Comments Received
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1 INTRODUCTION

1.1 Overview of Regulatory Program

The Town of Freeport (Town) is subject to the General Permit for the Discharge of Stormwater (General Permit) from Small Municipal Separate Storm Sewer Systems (MS4s), issued by the Maine Department of Environmental Protection (Maine DEP) with an effective date of July 1, 2022. This Clean Water Act permit duration is limited to a five (5) year period and expires on June 30, 2027. Should the Maine DEP not issue a new General Permit by June 30, 2027, the 2022 – 2027 General Permit will be administratively continued, and the Town may need to update this Stormwater Management Plan (SWMP) to show what activities it will complete during the continued period.

Communities are regulated under this program when and if they are identified as having “Urbanized Areas” in their municipal boundary. An Urbanized Area (UA) is a U.S. Census-defined term applied to a large area (50,000 people or more) with a high population density or a high percentage of impervious cover (e.g., hardscape surfaces like asphalt or building roofs). The population density and impervious cover criteria can cause an area to be at risk for adverse surface water quality impacts from polluted stormwater discharges.

The U.S. Environmental Protection Agency (US EPA) and Maine DEP began regulating communities for their stormwater discharges using the UA criteria in 2003. The Town of Freeport became regulated in 2003 based on the 2000 US Census Bureau UA delineation.

Once a community becomes regulated by the MS4 General Permit, only the Town's UA portions are regulated. As each US Census is published, if the UA changes based on population density or impervious cover, additional areas can be added to the current regulated area once a new MS4 General Permit is issued. An UA regulated by the MS4 General Permit cannot be removed even if a subsequent census identifies it is no longer classified as an UA. So, the area regulated by the MS4 General Permit can either grow larger or stay the same size, but it cannot become smaller. The UA Map provided in Appendix A shows the area regulated by the 2022 MS4 General Permit for the Town based on the cumulative 2000 and 2010 US Census UA delineations. The 2022 MS4 General Permit specifically does not include any areas identified by the 2020 US 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 two transportation agencies subject to their own MS4 General Permit. There are also eight state and federal agencies subject to a third MS4 General Permit (which are called “nested” MS4s). The regulated MS4s (municipal, transportation, and state/federal) have a good history of cooperating on a state-wide basis to complete the General Permit activities. These cooperative relationships provide cost-saving measures by combining Public Education, Public Outreach, and Training Workshops that reach a wider audience, improve the quality of compliance, and apply consistent standards.

The Town is a member of the Casco Bay Interlocal Stormwater Working Group (ISWG), pronounced *izzy-wig*. The ISWG is a coalition of 14 MS4 municipalities in the greater Portland and Saco areas. The Southern Maine Community College and the University of Southern Maine are nested MS4s, which are regulated under a separate General Permit. This coalition is under contract with the Cumberland County Soil and Water Conservation District (CCSWCD),

which facilitates and helps complete some of the General Permit requirements.

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

The Town relies on the ISWG to complete regional and state-wide requirements and implements many other requirements using municipal staff. This SWMP 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 sets narrative effluent limitations, in the form of Minimum Control Measures (MCMs).

Each of the four previous MS4 General Permits issued in 2003, 2008, 2013, and 2022 required that the regulated MS4s develop and implement a SWMP to coincide with the General Permit's effective dates.

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

- 1 Education and Outreach Program
- 2 Public Involvement and Participation
- 3 Illicit Discharge Detection and Elimination Program (IDDE)
- 4 Construction Site Stormwater Runoff Control
- 5 Post-Construction Stormwater Management in New Development and Redevelopment
- 6 Pollution Prevention and 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 SWMP expand upon or continue BMPs that were developed under prior General Permits.

In addition to addressing the six (6) MCMs, the Town must address several impaired waters requirements. Sections 1.4 and 1.5 describe the Town's water quality status and how inspections within the watersheds are prioritized.

The Maine DEP will review this SWMP and determine if the Town controls 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 project's overall purpose. 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 meets 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 into the SWMP to allow communities to engage in an adaptive management approach to mitigating or eliminating pollutants' discharge to and from its regulated small MS4. This approach enables 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 Maine 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 the SWMP. Section 1.9 describes the annual reporting requirements.

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 U.S. 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 General Permit does not authorize a direct discharge that is inconsistent with the WLA of an approved TMDL. This requirement applies only to TMDLs that EPA approved 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 Maine DEP has determined the MS4 discharge is not causing or contributing to the impairment.

The Fact Sheet 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 focus on identifying the root cause of impairments and develop a strategy to reduce the discharge of pollutants of concern if the permittee is causing or contributing to the impairment.

Section 1.4.1 generally describes 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 that have MS4 requirements and provides the 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 assess whether each of those waters meets 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 Maine Statutes' various waters (Title 38, Sections 464 through 469).

Assessments about whether each water is achieving its designated classification are based on data obtained from several sources depending on the type of water being assessed.

- Lake and ponds are assessed primarily through data obtained by the Maine 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 evaluating data obtained from the Maine 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 Maine DEP Biomonitoring Program.
- Rivers and Streams are assessed using data from the Maine 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, U.S. EPA, and the United States Geologic Survey.

Every two years, the Maine DEP publishes a report and list documenting the assessments' results, and identifies 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, as the 305(b) report and the 303(d) list, respectively. There are five general status categories available for assignment to each water.

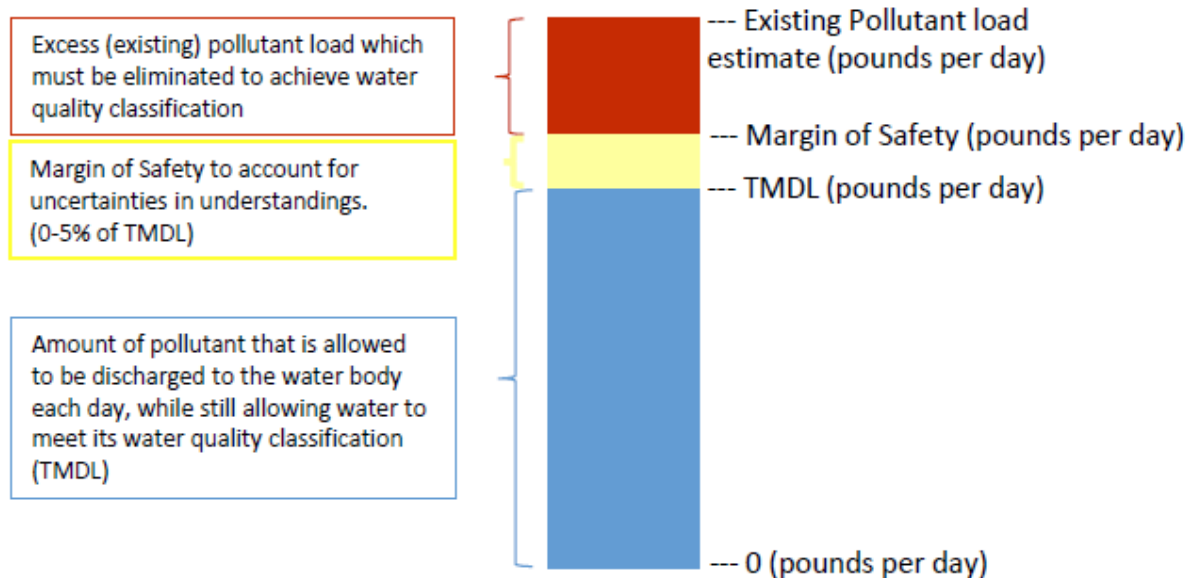
- Category 1: Attains all designated uses and water quality standards, and no use is threatened.
- Category 2: Attains some of the designated uses; no use is threatened; and, insufficient data or no data and information is available to determine if the remaining uses are attained or threatened (with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

required for these waters.

- 5B classifies waters that are impaired only for Bacteria.
- 5C classifies Rivers and Streams impaired by atmospheric Deposition of Mercury (no wetlands, lakes, or estuarine waters are impaired in this category).
- 5D classifies waters that are impaired by legacy pollutants (such as DDT or PCBs).

In Maine, the most current 303(d) list approved by the US 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 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 the 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 Freeport Water Quality Status

This section summarizes the waters in the Town's UA 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 relative to the 2022 MS4 General Permit.

The following documents were reviewed in developing Table 1.

- Statewide Bacteria TMDL (September 2009 and 2013 Addendum)
- Statewide Impervious Cover TMDL (September 2012)
- Statewide Non-Point Source TMDL (2015)
- Final 2016 Maine Integrated Water Quality Report and Appendices (a.k.a. Maine 305(b) Report and 303(d) list). Note that the Maine DEP has indicated they will not issue a 2018 303(d) report, instead they will issue a combined 2018/2020/2022 303(d) report.
- US EPA and Maine DEP approved TMDL lists
- Chapter 502 Direct Watersheds of Lakes Most at Risk from New Development and Urban Impaired Streams

Figure 1 shows the fresh waters' locations and their status according to the 2016 303(d) list (from <https://maine.maps.arcgis.com/apps/webappviewer/index.html?id=dffb3d2b85904b18978d02fc9d913b5f>). The Figure shows Frost Gully Brook as Category 4A (TMDL completed) and Concord Gully Brook as Category 5 (TMDL needed).

Figures 2 and 3 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 its designations and naming structure on 3/1/2021, the Figures reflect the new designations and naming structure. Table 1 shows the new designation and the old DMR designation in effect when the 2022 MS4 General Permit was finalized on 10/15/2020. The Maine DEP does not otherwise show graphic representation of impaired marine and estuarine waters, so these graphics are used.

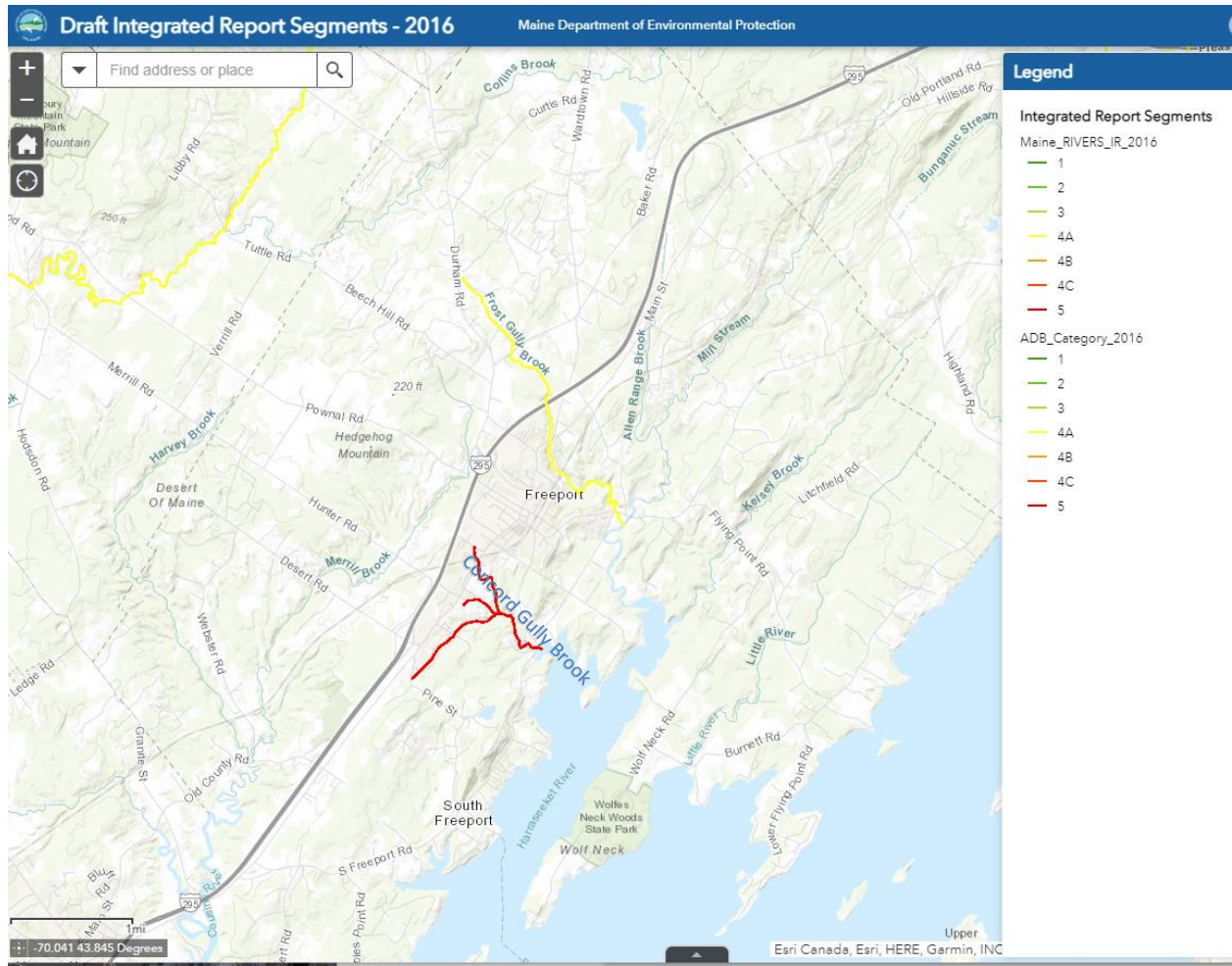


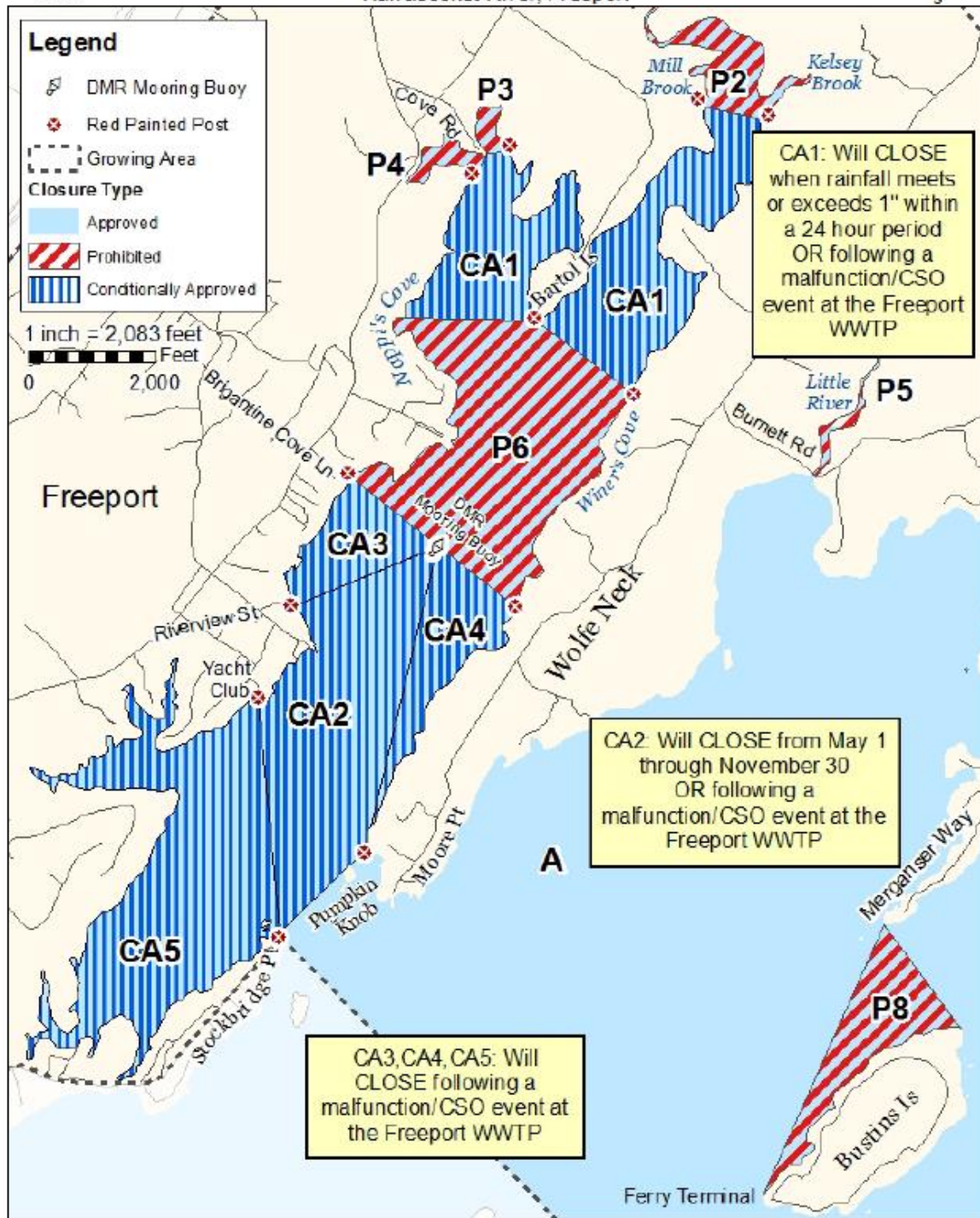
Figure 1 Freeport Freshwater Impairments



Maine Department of Marine Resources

Growing Area WJ, Inset B
Harraseeket River, Freeport

3/1/2021



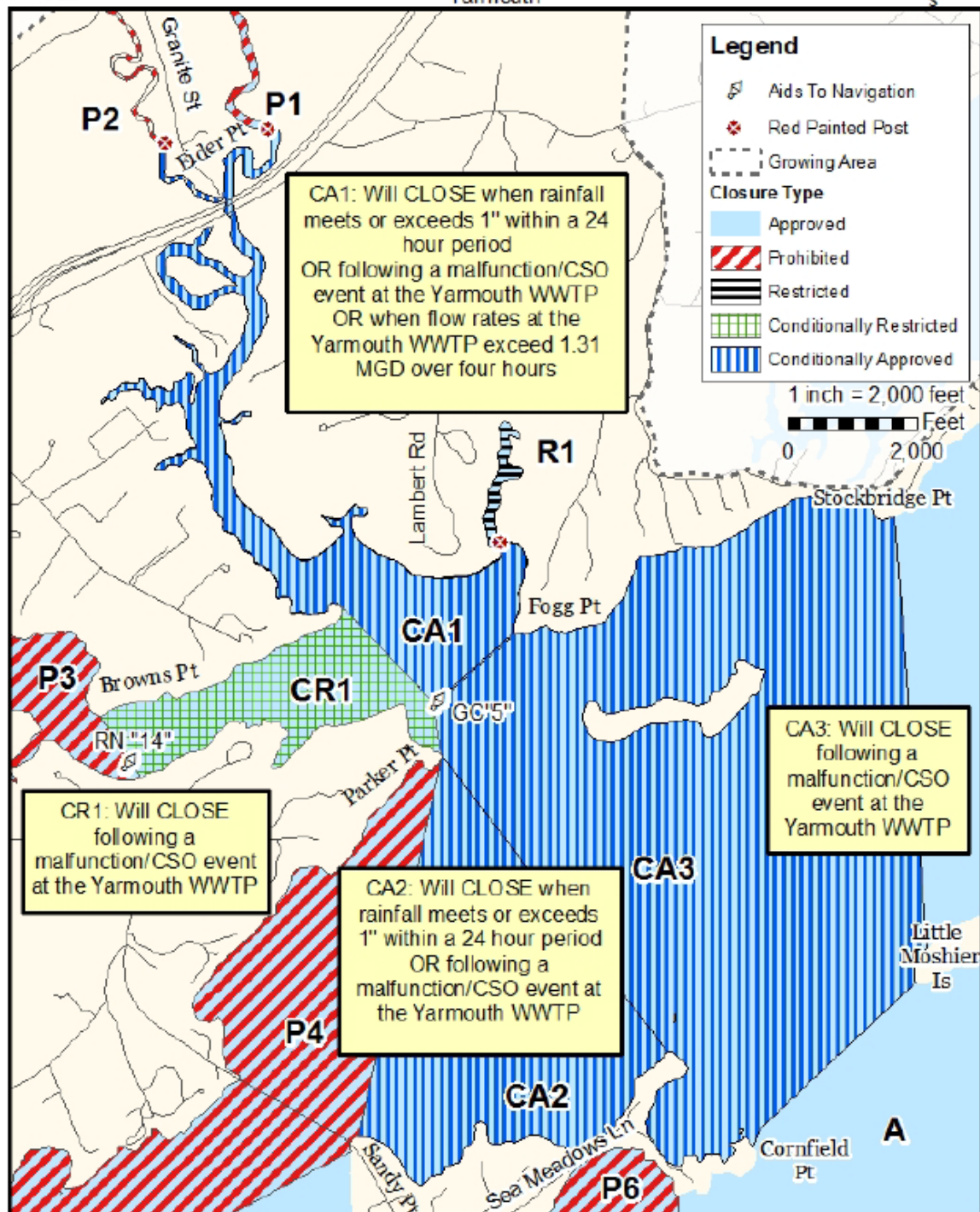
This map is provided as a courtesy. Read the provided legal notice for closure details. Closures are not shown outside of the designated growing area. Maritime navigational aids are for reference only and are not suitable for maritime navigation.

Figure 2 Harraseeket River Shellfish Closure Schedule



Maine Department of Marine Resources

Growing Area WI, Inset A
Yarmouth



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.

Figure 3 Cousins River Shellfish Closure Schedule

Table 1 Status of Waterbodies Receiving MS4 Discharges – Freeport, Maine						
Water bodies with MS4 discharges	Maine DEP classification and numeric designation	DMR Area	Completed TMDLs	Urban Impaired Streams (Chapter 502)	Non-TMDL listing in 2016 303(d) list	Watershed Management Plan / Other Water Quality Document
Atlantic Ocean - Cousins River Estuary and Redding Creek	802 Class SB	WI (formerly Area14)	None	None	Category 5-B-1(a) for bacteria – TMDL required	
Atlantic Ocean Harraseeket River and tributaries including Mill Stream	802 Class SB	WJ (formerly Area 15)		None	Category 5-B-1(a) for bacteria – TMDL required	
Frost Gully Brook	ME010600010 6-602R01 Class A	N/A	Bacteria TMDL and Impervious Cover TMDL	Yes		2017 Geomorphic Study of Frost Gully Brook
Concord Gully Brook	ME010600010 6-602R03 Class B	N/A	Impervious Cover TMDL	Yes	5-A TMDL required for Bacteria impairment (was not included in Bacteria TMDL)	2015 Watershed Management Plan
Allen Range Brook	Class B	N/A	None	No	None	None

1.4.2.1 Discharges to Waters with TMDLs

Frost Gully Brook and Concord Gully Brook are the only waters with U.S. EPA-Approved TMDLs that receive stormwater discharges from the Town's MS4 area. Because these waters are also Urban Impaired Streams, the Maine DEP has stated that the 2022 MS4 General permit requirements for Urban Impaired Streams are sufficient to address the TMDL requirements.

1.4.2.2 Discharges to Urban Impaired Streams

Frost Gully Brook and Concord Gully Brook are the Town's only Urban Impaired Streams, and these streams receive discharges from the MS4 system. As such, the Town will implement three (3) BMPs to address the impairments, as described in Section 2.7 of this SWMP. Progress on addressing these impairments is described in Section 1.4.3, which provides the rationale for the BMPs that will be implemented.

1.4.2.3 Discharges to Impaired Waters without 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 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 WI and WJ (formerly 14 and 15).

These waters were initially listed in the Statewide Bacteria TMDL, but in 2016, the Maine DEP moved the estuarine/marine waters to the 303(d) non-TMDL category until 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 MS4s should handle impairments in these areas.

The Statewide Bacteria TMDL document does not specifically identify the sources of the bacteria impairments. Still, it encourages communities to pursue an action plan based on an 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 the following outcomes.

1. The DEP has not fully specified the root cause of the impairment but suspects that stormwater is a contributing factor.
2. Implementation of the IDDE elements (e.g., 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 the Bacteria TMDL document can be updated.

1.4.3 Restoration Progress and Approach to BMP Development

This section describes the historical activities that have been completed and the current status of proposed and planned projects for the Town's two Urban Impaired Streams: Frost Gully Brook and Concord Gully Brook. The information provided in this section is not a thorough discussion of all activities completed but is intended to provide the rationale for selecting the three (3) BMPs and their Measurable Goals described in Section 2.7 of this SWMP.

1.4.3.1 CFUP for Frost Gully and Concord Gully Brooks

Maine DEP Standards require that projects in an UIS watershed that need a Site Law permit, or a Chapter 500 permit modification must either pay a compensation fee or mitigate the project's impacts by reducing or eliminating an offsite or onsite pre-development impervious stormwater source. Maine DEP Rule Chapters 500, 501, and 502 describe the details of this process. Effectively a municipality must create a Compensation Fee Utilization Plan (CFUP) for the UIS, which describes projects that can be implemented to mitigate new impervious cover to receive

the compensation fee from a developer. The Town may then construct a project in the CFUP once sufficient funds have been collected.

The Town of Freeport prepared a CFUP in 2007 for the Concord Gully Brook Watershed but has not constructed any projects since no projects have triggered the CFUP rule.

1.4.3.2 Watershed Work in Concord Gully Brook

A Watershed Survey was completed in 2012 and 2013 for Concord Gully Brook. Forty-five impact sites were identified in the survey, and additional water quality monitoring was conducted along with a Fluvial Geomorphic Assessment on a portion of the stream's tributaries. Of the 45 impact sites, two were identified as high impact, 24 were identified as medium impact, and 19 were identified as low impact.

Based on the Watershed Survey, a Watershed Management Plan was created in 2015 and approved by the Maine DEP. A Section 319 Grant, titled Concord Gully Brook Watershed Restoration Project, Phase I was obtained in 2016 and completed in 2018. The restoration project mitigated two medium impact sites (Project ID S-4 at Site 5-13, Concord Road Conveyance Stabilization and Treatment) and one in-stream stabilization site (Project ID IS-9, Sewer Right of Way Stabilization at the end of Casco Street in Freeport on Tributary C). These two sites are close to one another and lent themselves to combined restoration. Approximately 800 feet of eroded stream bank was stabilized at these two sites using pools and cascade structures, riffles, and rock vanes.

Under the Phase I Restoration project, the Town Engineer reviewed and provided three options to address stream and channel erosion at the West Street Culvert outlet (Project ID IS-4 at Site 3-1, an undersized and perched 36-inch culvert causing significant stream channel erosion). This evaluation led to grant applications and a stream restoration design consistent with the Watershed Management Plan's Geomorphic Study.

A Section 319 Grant titled Concord Gully Brook Watershed Restoration Project, Phase II, was obtained in 2018. Design and construction were completed in 2020, which restored the West Street Road Crossing to the historic stream channel width and elevation. This site was one of the two high-priority sites identified for the Watershed.

The second high-priority site, Project ID S-3 at Site 3-7, was mitigated in 2020. The Town worked with L.L. Bean during the permitting and design phases by rehabilitating the outfall behind their Corporate Building.

In addition to in-stream and structural issues, the Concord Gully Brook Watershed Management Plan identified that chloride is a stressor to macroinvertebrates within the stream and would benefit from chloride reduction activities. The Town and ISWG have developed a regional BMP that will be implemented for this UIS related to chloride reduction. Stormwater runoff from impervious surfaces was also identified in the Watershed Management Plan as a contributor to the streams' health. The Town is partnering with business owners in the watershed to mitigate stormwater runoff, reduce chloride applications, and conduct enhanced street sweeping of the impervious surfaces. These BMPs are presented in Section 2.7 of this SWMP.

Figure 4 provides an overview of recent projects in Concord Gully Brook that are discussed in this section.

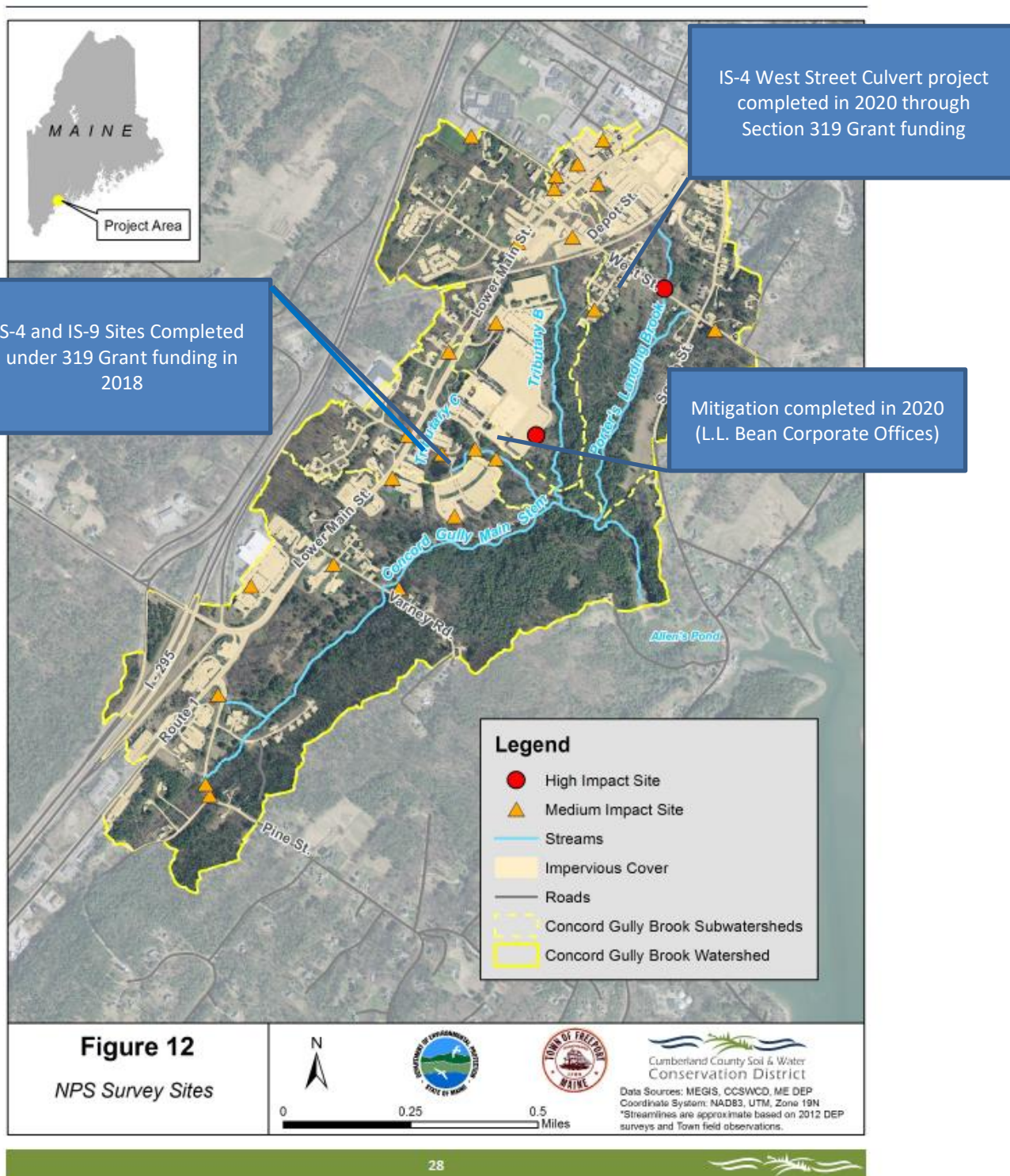


Figure 4 Concord Gully Brook Watershed Projects

1.4.3.3 Watershed Work in Frost Gully Brook

No Watershed Management Plan has been prepared for Frost Gully Brook, but the Town has been proactively addressing impairments whenever work has been completed in the Watershed. The following is a list of projects that have been completed to date in this Watershed that have benefitted water quality.

Repair Work on Cross Country Sanitary Sewer Line

A sanitary force main runs under the Brook for several hundred feet. The Town worked with the Sanitary Sewer District in 2017 to abandon 3,500 feet of gravity main from Leon Gorman Park to the Mast Landing Pump Station.

2001-2005 Riparian Buffer planning and Installation of 3 BMPs

Project highlights included:

- A wet pond was created at 43 Bow Street with an emergency spillway for overflow of high flow events.
- The Town and CCSWCD worked with Freeport High School students to plant 100 trees in the riparian buffer and around the wet pond installed at 43 Bow Street.
- The Town acquired a property on Park Street, and a dry pond was constructed with an outlet to a constructed/enhanced wetland.
- A cap was installed on the parking lot culvert of the Harraseeket Inn to allow the site's settling basin to treat low flow storm events better.

The Town's work in Frost Gully Brook identified that chloride reduction practices would benefit the Brook. The Regional BMP for this topic will be applied to both Concord and Frost Gully Brooks as presented in Section 2.7 of this SWMP. The Enhanced Street Sweeping BMP within this watershed is also presented in Section 2.7. Geomorphological and stormwater inputs were also identified as contributors to the health of Frost Gully Brook. The Town will conduct an assessment of these contributions, which are described in more detail in Section 2.7.

1.5 Priority Watersheds

The three previous MS4 General Permits required that regulated MS4s identify a Priority Watershed, and several permit requirements applied to the Priority Watershed. The 2022 MS4 General Permit does not have 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 Freeport uses this prioritization to identify where illicit discharge inspections are conducted first. The Town may also use the prioritization for illicit discharge investigations if there were insufficient resources to address all potential illicit discharges simultaneously. The IDDE Plan under in MCM3 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. These waters then become 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 highest priority watershed is Concord Gully Brook because its stream is classified as an UIS and has the highest percentage of impervious cover. All commercial projects located in this Watershed must include measures that manage stormwater quantity and quality to the pre-development condition. All new projects built over the past 10 years have improved stormwater quality by attenuating post development flow rates below the pre-development condition and by treating the one-inch storm event.

The Frost Gully Brook Watershed is the second priority watershed. The stream is also classified as an UIS. The land area is relatively rural, with all development projects required to comply with Maine DEP and the Town's Stormwater permitting regulations. Water quality within the Watershed is believed to be improving based on projects completed within the past 20 years.

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 the review of the SWMP and NOI, and receipt of any public comments, the Maine DEP issued a permittee-specific Maine 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 DEP Order is also referred to as a Second Step Permit.

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

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

This SWMP has been updated in accordance with that requirement. The final permittee specific Maine DEP Order is included in Appendix B including the comments received and the DEP responses.

The new permit conditions take effect on 7/1/2022.

1.7 SWMP Availability

The SWMP must be made available to the public by publishing it 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) US EPA 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 2022 to 2027 permit term, 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 determines the following conditions are warranted.

- a) Actions required by the BMPs fail to control pollutants and meet the terms and conditions of the 2022 MS4 General Permit and the permittee-specific Maine DEP Order;
- b) 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 using a standardized form provided by and for Maine DEP review. The Annual Compliance Report must be sent via email to the Municipal Stormwater Coordinator. As of April 2022, the Maine DEP Municipal Stormwater Coordinator is:

Holliday.Keen@maine.gov

**Municipal/Industrial Stormwater Coordinator
Department of Environmental Protection
17 State House Station Augusta,
Maine 04333-0017**

The Annual Compliance Report must include the following:

1. The status of compliance with the terms and conditions of the 2022 MS4 General Permit and the Town's permittee-specific Maine DEP Order, based on the implementation of the Town's SWMP 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
2. A summary of information collected and analyzed, including monitoring data, if any, during the reporting period.
3. A summary of the stormwater activities the Town intends to undertake pursuant to its SWMP to comply with the terms and conditions of the 2022 MS4 General Permit and the Town's permittee-specific Maine DEP Order during the next reporting cycle.
4. A change in any identified BMPs or measurable goals that apply to the SWMP.
5. 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 and 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, and activities taken to comply with the 2022 MS4 General Permit and its SWMP, 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 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 Maine 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 SWMP, 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 the Towns to develop two Education and 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 state-wide survey to assess public awareness of various 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 selecting the BMP based on the ISWG members' understanding of their community. The BMPs are further structured to allow for adaptive education and outreach approaches to create a strong, diverse, and effective campaign over this General Permit duration.

The Town will fulfill the requirements for Public Education and Outreach through participation in the ISWG and the Town's provision of funding to the CCSWCD for Public Education and Outreach services, as described in the following BMPs. The BMPs will be implemented according to their individual timelines over the term of the General Permit.

2.1.1 BMP 1.1 – Outreach to Raise Awareness Campaign.

Responsible Party – MS4 Coordinator, designated by Town Manager (with implementation assistance from ISWG)

The 2022 MS4 General Permit requires the permittee to raise awareness of the public and one of the following groups: municipal, commercial, development/construction, or institutions. This BMP describes the reasoning and measurable goals for the public audience and the selected second audience, i.e. development/construction.

Background for Measurable Goal 1.1a Public Audience: The Think Blue Maine campaign began in 2003 as a state-wide 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

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

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 state-wide 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 workplace. 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 or demographics.

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

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

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.

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

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 state-wide stormwater education to contractors to reduce development and construction-related stormwater pollutants that are not already required by MCM 4. Due to the development/construction sector's cyclical nature, a baseline evaluation will be conducted before or during Permit Year 1 to establish Maine DEP Erosion and Sediment Control Certified Contractors. If contractors are certified by Maine 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 Maine 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 impact local water bodies negatively.” 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 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 Maine DEP-certified contractors located in the ISWG region over the permit term.

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

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 - MS4 Coordinator, designated by Town Manager (with implementation assistance from 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:

- 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.
- 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. Respondents expressed a willingness 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.

- 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 Casco Bay's health. 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.
- 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.
- 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.
- Dog owners ages 25 to 64 are the least likely age group to pick up after their dog⁷. However, dog owners age 25 to 64 receive their information through different outreach methods⁸. Two audiences will be created to provide effective messaging on proper dog waste management and 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 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

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.

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

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 permit duration.

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.

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 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 - MS4 Coordinator, designated by Town Manager (with implementation assistance from 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 each BMP's implementation. The annual report will include the message for each audience, the methods of distribution, the outreach tools used, the measures/methods used to determine the 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, the Town will evaluate 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 and 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 Maine 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 - MS4 Coordinator, designated by Town Manager (with implementation assistance from 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 CCSWCD'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 funding provisions to CCSWCD for Public Involvement and Participation services or directly fulfilling the requirements, as described in this section of the SWMP.

BMP 2.1 - Public Notice Requirement

Responsible party - MS4 Coordinator, designated by Town Manager (with implementation assistance by ISWG)

Measurable Goal 2.1a – The Town will follow applicable State and local public notice requirements for their SWMPs and 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 implementing the SWMP and MS4 General Permit. These meetings will be publicized through the CCSWCD website and on ISWG member websites and are open to the public.

BMP 2.2 - Host Public Events

Responsible party - MS4 Coordinator, designated by Town Manager (with implementation assistance by ISWG)

Measurable Goal 2.2a – The Town will annually host, conduct, or participate in a public community event with a pollution prevention or water quality theme from the list included in the 2022 MS4 General Permit or another activity approved by the Maine DEP. Stormwater stewardship and educational messages and activities will be incorporated into the event. The event will be advertised on the Town’s website, 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 and participation.

2.3 MCM 3 Illicit Discharge Detection and Elimination

The Town will continue to implement its 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 (QAPP)
- 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. The Town’s Code of Ordinances are referenced in this MCM and can be found here: [Charter, Ordinances and Codes | Freeport ME \(freeportmaine.com\)](https://www.freeportmaine.com/charter-ordinances-and-codes)

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

Responsible Party – Code Enforcement Officer and MS4 Coordinator, designated by Town Manager

Measurable Goal 3.1a – The Town adopted a Non-Stormwater Discharge Ordinance on December 21, 2004. The Ordinance is Chapter 27 Non-Stormwater Discharge Ordinance in the Town’s Code of Ordinances. The Code Enforcement Officer assists the Town Manager or designee by issuing Notices of Violations when the IDDE investigations identify it is appropriate. The Town will continue to enforce this ordinance throughout the permit cycle.

The Town will update the Regulated MS4 and Urbanized Area definitions in Chapter 27 by October 15, 2023 in conjunction with MCM 4 and 5 ordinance changes.

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 - MS4 Coordinator, designated by Town Manager

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

Measurable Goal 3.2b - The Town will perform the following actions.

1. Conduct a wet weather assessment in accordance with the 2022 MS4 General Permit Part IV.C.3.f,
2. Incorporate the wet weather assessment into their IDDE Plan by the end of Permit Year 5 (6/30/2027).
3. Conduct the wet weather monitoring during the next Permit Cycle.

2.3.3 BMP 3.3 - Maintain Storm Sewer System Infrastructure Map

Responsible Party - MS4 Coordinator, designated by Town Manager

Measurable Goal 3.3a – The Town created a watershed-based map of the MS4 infrastructure during the first two permit cycles (2003-2013) and continued to update it during the initial 2013-2022 permit cycle. 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 will be updated annually as follows:

- The GIS geodatabase is updated to reflect changes to infrastructure based on inspections by the Town Manager or designee by June 30 each year,
- The GIS geodatabase is updated when as-built drawings become available for municipal infrastructure.

2.3.4 BMP 3.4 – Infrastructure Inspections and Outfall Monitoring

Responsible Party - MS4 Coordinator, designated by Town Manager

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 frequency).

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 reveal the potential for an illicit discharge: The Town will investigate the catchment area associated with the outfall for potential illicit discharges described under Measurable Goal 3.5a.
2. Outfalls where sampling and analysis do 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 Town's IDDE Plan (contained in Appendix E) describes the information collected during infrastructure inspections (MG 3.4a) and dry weather flow monitoring (MG 3.4b).

The Town will summarize either the monitoring results or the exempt status on the excel spreadsheet used for MG 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.

2.3.5 BMP 3.5 – Conduct Investigations on Suspect Illicit Discharges

Responsible Party - MS4 Coordinator, designated by Town Manager

Measurable Goal 3.5a – Whenever the Town becomes aware of a potential illicit discharge, it will investigate the source using methods described in the written IDDE Plan (Appendix E). The Town 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 - MS4 Coordinator, designated by Town Manager

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 Maine DEP published an issue profile providing water districts and departments guidance on meeting ambient water quality standards for chlorine during hydrant flushing. The document was designed explicitly 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 Maine Water Company to provide an annual report describing their hydrant flushing dechlorination processes. 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 would work with 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 Site Stormwater Runoff Control Program. This program pertains to 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. The program will be implemented through the BMPs described in this section.

Overall, the Town's existing ordinances meet most elements of the Construction Site Stormwater Runoff Control MCM, but some minor modifications are required to meet the 2022 MS4 General Permit requirements. The following is a summary of the Town's existing ordinance requirements that address this MCM.

Zoning Ordinance (May 2008)

The Town's Zoning Ordinance specifies which projects require Site Plan (Section 602) or Subdivision (Chapter 25) review according to the proposed use in each district. The districts and thresholds for various reviews are specified in Article IV Zoning District Regulations. A review of the various districts and local permitting thresholds shows that generally, sites that disturb one acre or more will require Site Plan or Subdivision Review. The one-acre or more threshold is not explicitly listed, but these projects are always inspected and enforced in accordance with the Findings of Facts and Conditions of Approval.

Article V of the Zoning Ordinance contains Performance Standards

Section 529 contains the Stormwater Management Standards, which apply to all Site Plan and

Subdivisions reviewed. There are four standards listed. The first standard requires onsite stormwater using natural features to the greatest extent possible. The second standard requires post development stormwater flows to be the same or lower than pre-development flows offsite unless the stormwater discharge is to the Cousins, Royal or Harraseeket Rivers. The third standard requires retention of the first half-inch of runoff from any storm event for 24 hours or treatment to address stormwater discharge quality. The fourth standard requires any applicant triggering a Maine DEP Chapter 500 or Site Law permit to document their compliance with those requirements.

Section 602 of the Zoning Ordinance (Site Plan Review) describes two levels of review in Freeport. Smaller projects receive review via a Staff Review Board (Town Planner, Fire Chief, Code Enforcement Officer, designated Engineer, and Public Works Director and any other departments as needed). Larger projects receive review via the Project Review Board. Section 602.D specifies what documents are required to be submitted for Site Plan Review by the Staff or Project Review Boards. Although an Erosion and Sediment Control Plan is not explicitly required, this section does require the submittal of a stormwater drainage plan (602.D. 4.j) in accordance with the Criteria and Standards identified in Section 602.F. The Criteria and Standards section for Stormwater contain general requirements to prevent adverse impact to the storm drain system and downstream waters (602.F.1.e) and a statement that the project must not result in water pollution, erosion or sedimentation to surface waters (602.F.1.l). It does not contain any specific numerical sediment or erosion control standards; however, projects are always inspected and enforced in accordance with the Findings of Facts and Conditions of Approval.

Chapter 25 Subdivision Review (Subdivisions)

Section 11.4, Soil Erosion, contains statements prohibiting erosion and requires sediment control during construction. In addition, Appendix A states the Project Review Board may require an applicant of a major or minor subdivision to submit an erosion and sediment control plan in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices. The plan is submitted for all projects in practice but is always required for sites that trigger the MS4 thresholds. These projects are always inspected and enforced in accordance with the Findings of Facts and Conditions of Approval.

The Town's Code of Ordinances are referenced in this MCM and can be found here: [Charter, Ordinances and Codes | Freeport ME \(freeportmaine.com\)](https://www.freeportmaine.com/ordinances-and-codes).

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

2.4.1 BMP 4.1 – Erosion Sediment Control Ordinance

Responsible Party – Town Planner and MS4 Coordinator, designated by Town Manager

Measurable Goal 4.1a – The Town's Subdivision Ordinance (Chapter 25) requires an Erosion and Sediment Control Plan at the discretion of the Project Review Board. The Site Plan Review Procedures in the Town's Zoning Ordinance specify that any commercial and subdivision application modifying more than 500 square feet receive approval by the Staff or Project Review Board only if sedimentation and erosion are controlled. These Town Ordinances generally cover 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, but do not contain the specific one-acre threshold. In addition, the Ordinances do not contain all the elements specified in Attachment C to the 2022 MS4 General Permit. However, these projects are always inspected and enforced in accordance with the project's Findings of Facts and

Conditions of Approval.

The Town will update Chapter 25 Subdivision Ordinance and Section 602 of the Zoning Ordinance by 7/1/2023 to include the specific one-acre threshold trigger and to either contain or reference 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, Appendix A (Erosion and Sediment Control), Appendix B (Inspections and Maintenance), and Appendix C (Housekeeping)).

Measurable Goal 4.1b – Before completing 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 through C).

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 - Town Planner and MS4 Coordinator, designated by Town Manager

Measurable Goal 4.2a – The Town's Site Plan Review procedures in Section 602 of the Zoning Ordinance contain the required elements listed in the 2022 MS4 General Permit (e.g. 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). These procedures will continue to be implemented.

2.4.3 BMP 4.3 – Procedures for Notifying Construction Site Developers and Operators

Responsible Party – Town Planner

Measurable Goal 4.3a – The Responsible Parties will continue notifying developers and contractors of requirements to obtain coverage under the Maine Construction General Permit and Chapter 500, Stormwater Management Law for sites that disturb one or more acres of land through implementation of Section 529.4. This section requires any applicant requiring a Maine DEP stormwater management permit to provide documentation to the Staff or Project Review Board to obtain the required permit.

2.4.4 BMP 4.4 –Develop Written Procedures, Conduct and Document Construction Site Inspections

Responsible Party – MS4 Coordinator, designated by Town Manager

Measurable Goal 4.4a – By 7/1/2022, the Town will create a written document to describe its procedure for construction site inspections and will include the following 2022 MS4 General Permit requirements:

- Identify that typically sediment and erosion control inspections are conducted by the Code Enforcement Officer, the designated Engineer, or a qualified third-party inspector for all construction sites.

- Identify that the inspector will review any inspection deficiencies with the contractor during or after 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 seven calendar days and before any storm event (i.e. rainfall).
- Require three inspections during the 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.
- Include use of the inspection elements from the construction inspection form provided in Appendix F, Development Review Process (SOP).

Measurable Goal 4.4b. The Town's designated Engineer will conduct sediment and erosion control inspections and document construction sites that trigger the ordinances. The designated Engineer will document the inspections. The records may be linked to ArcGIS software for visual display, including 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 continue to implement its Post Construction Stormwater Management Program 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. The Town's Code of Ordinances are referenced in this MCM and can be found here: [Charter, Ordinances and Codes | Freeport ME \(freeportmaine.com\)](#).

In addition to the overview provided for MCM 4, the following ordinances relate to the MCM 5 requirements:

Chapter 53 Post Construction Ordinance Requirements

- Prepare and implement a Post Construction Stormwater Management Plan.
- Execute and record a Maintenance Agreement for any infrastructure that will remain under private control.
- Submit an annual report documenting that all onsite BMPs have been inspected by a qualified inspector (on the list of qualified inspectors maintained by the Town Planner or Town Manager or designee) and are either functioning as intended or, if they require maintenance and repair, a list of deficiencies and documentation once they are corrected.

The Town's Code of Ordinances are referenced in this MCM and can be found here: [Charter, Ordinances and Codes | Freeport ME \(freeportmaine.com\)](#) . 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 – Town Planner and MS4 Coordinator, designated by Town Manager

Measurable Goal 5.1a – The Town, in partnership with other MS4s, developed 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 by the date of September 1, 2022 as required by the initial MS4 Permit. After approval by the Maine DEP, the Model LID Ordinance approval was revoked because of an appeal process through the Board of Environmental Protection. This Measurable Goal is no longer applicable.

Measurable Goal 5.1b – The Maine DEP is planning to modify the MS4 General Permit to contain performance standards for each LID measure found in Table 1 of Appendix F of the MS4 General Permit that all permit holders must adopt in their LID ordinance. Assuming the Maine DEP modifies the MS4 General Permit as noted in a timely manner, the Town will either adopt a LID Ordinance or amend the existing Town Ordinances for stormwater management on new and redevelopment sites which establishes clear, specific and measurable standards for each of the LID measures contained in Table 1 of Appendix F to the maximum extent practicable on or before November 5, 2025.

2.5.2 BMP 5.2 – Maintain Post Construction Ordinance or Similar Measure

Responsible Party – Town Planner and MS4 Coordinator, designated by Town Manager

Measurable Goal 5.2a – During the 2008-2013 permit cycle, the Town passed a Post Construction Stormwater Discharge Ordinance (Chapter 53 Post Construction Stormwater Management Ordinance effective June 2, 2009) which requires that any site that disturbs one or more acres to annually certify to the Town by May 31 that they have inspected and maintained their stormwater BMPs. The Town will continue to track the following information.

- 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 Stormwater Management Ordinance (Chapter 53) 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 Town's Enforcement Authority within that 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 Enforcement Authority (i.e., Code Enforcement Officer) to establish an expeditious schedule to correct the deficiency and will provide a record of the corrective actions taken.

In conjunction with the updates, the definitions of MS4 and Urbanized Area in Chapter 53 will be updated to reflect the requirements of the 2022 MS4 General Permit.

2.6 MCM 6 Pollution Prevention/Good Housekeeping for Municipal Operations

This MCM's objective is to mitigate or eliminate pollutant runoff from municipal operations on property that is owned or managed by the Town and located within the 2000-2010 UA. The following BMPs are implemented to ensure compliance with MCM 6.

2.6.1 BMP 6.1 – Operations at Municipally-Owned Grounds and Facilities

Responsible Party – MS4 Coordinator, designated by Town Manager

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, parks, and open space owned or operated by the Town that have the potential to cause or contribute to stormwater pollution. The Town will annually review and update its inventory.

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 that could cause or contribute to stormwater pollution. The Town will continue to implement these O&M Procedures and annually review and update them to improve strategies and practices to eliminate or better control pollutant discharges.

2.6.2 BMP 6.2 – Training

Responsible Party – MS4 Coordinator, designated by Town Manager

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

- a. Train 80% of the following municipal staff who are responsible for implementing their respective O&M procedures: Public Works, Police, Fire, and Buildings and Grounds.
- b. Train Public Works employees who work in areas where industrial materials or activities are exposed to stormwater and who are responsible for outfall inspections.
- c. Training will either be in person, via remote learning (such as Teams or Zoom), or via requirements to read and acknowledge the Stormwater O&M Procedures and/or summary fact sheets about the program.

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 as soon as possible after snowmelt.

2.6.4 BMP 6.4 – Catch Basin Cleaning

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 clean catch basins that accumulate more than 25% of the sump's capacity.

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 the following year and be 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 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 and 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 –Stormwater Conveyance and Outfall Rehabilitation and Maintenance

Responsible Party – Public Works Director and MS4 Coordinator designated by Town Manager

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 Town's road paving program. Town Staff also inspect and maintain its public stormwater treatment systems.

2.6.6 Stormwater Pollution Prevention Plans (SWPPPs)

Responsible Party – MS4 Coordinator designated by Town Manager

Measurable Goal 6.6a – The permittee shall continue to implement and update their SWPPP for the Public Works Garage to ensure it meets Maine's current requirements under the Multi-Sector General Permit (MSGP) for Stormwater Discharges from Industrial Activities, and the permit requires visual monitoring. Records are maintained as required by the SWPPP. The Public Works Garage is not located within the regulated Urbanized Area, but it is directly contiguous to it, and the PW Garage has been regulated under the MS4 permit since the previous permit.

[The Freeport Recycling Center/ Transfer Station is located about a mile from the Town's regulated Urbanized Area, so it is regulated under Maine's MSGP Industrial Stormwater Program with an existing SWPPP.]

2.7 Impaired Waters BMPs

The Town's regulated MS4 has discharges to Frost Gully Brook and Concord Gully Brook, which are classified as Urban Impaired Streams in Maine DEP Rule Chapter 502 and are listed in the Maine Statewide Impervious Cover Total Maximum Daily Load (TMDL). Frost Gully Brook is also listed in the Maine Statewide Bacteria TMDL. The 2022 MS4 General Permit requires that the Town implement three BMPs for each of these Urban Impaired Streams, and the Maine DEP has stated that no additional actions need to be taken to address the TMDLs.

In addition, the Town's MS4 discharges to the Cousins River Estuary, which is listed in the 2016 303(d) list for bacteria impairments that are not subject to a TMDL, but the Maine DEP indicated no additional BMPs are required in this SWMP to address this impairment.

A Watershed Management Plan was created for Concord Gully Brook, and several other evaluations have been conducted for Frost Gully Brook. These documents are referenced in the following BMPs.

To meet the Urban Impaired Stream requirement of the 2022 MS4 General Permit, the Town will implement the following Best Management Practices.

2.7.1 BMP 7.1 – Minimize Chloride Contributions to Frost Gully Brook and Concord Gully Brook

Responsible Party – MS4 Coordinator designated by Town Manager (with implementation assistance from CCSWCD)

Background for BMP 7.1: As described in Section 1.4 of the Town's SWMP, chlorides were identified as a stressor in the Concord Gully Brook Watershed Management Plan. Although Frost Gully Brook does not have a Watershed Management Plan, chloride contributions to stormwater runoff may be a stressor.

The Town has already taken several actions over the past few years to minimize their chloride contributions during deicing. The Town 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 multi-section blades that adhere to shape of roads (or other kind of blade)
- Pretreatment of roads with brine when appropriate
- 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, 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 both its UIS(s).

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 to legislators regarding limited liability legislation, 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 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 a presentation to the Council.
 - Beginning the second and subsequent years after passage, the Town will educate property managers, private contractors, 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 – Concord Gully Brook Impervious Surface Mitigation

Responsible Party – MS4 Coordinator designated by Town Manager

Measurable Goal 7.2 – The Town has entered into a partnership with L.L. Bean to assess and mitigate impervious surface and stormwater impacts within Concord Gully Brook. The partnership led to the creation of a Credit Enhancement Agreement that reimburses the landowner for impervious surface treatment, disconnection, and removal. These mitigation measures will be constructed in 2021, 2022, and 2023 with reimbursement occurring thereafter. The project plans have been shared with and agreed upon by the Maine DEP, Town Council, and the public. The plans can be viewed at Freeport Town Hall. The results of the mitigation efforts include the installation of porous asphalt parking, conversion of obsolete impervious parking to green space, and low/no chloride applications - all at the Corporate Campus on Lower Main Street.

2.7.3 BMP 7.3 – Frost Gully Brook Geomorphological and Stormwater Assessment

Responsible Party – MS4 Coordinator designated by Town Manager

Measurable Goal 7.3 - The Town will conduct an assessment of stormwater inputs and culverts within the Frost Gully Brook Watershed. The assessment is a continuation of a Geomorphological Study conducted in 2017. Stormwater runoff was identified as a stressor on the stream's health in this study. The assessment will be conducted where impervious surfaces are concentrated between U.S. Route One, Bow Street, East Street, Park Street, Kendall Lane, and Mallett Drive. The assessment will inventory where stormwater quality and quantity management currently exists and identify opportunities for stormwater mitigation. The Town will prepare a report of its findings and share the results with the Planning Board and Town Council.

2.7.4 BMP 7.4 – Enhanced Public Street and Public Parking Lot Sweeping in Frost Gully Brook Watershed

Responsible Party – MS4 Coordinator designated by Town Manager

Measurable Goal 7.4 – The Town will conduct monthly street sweeping on all Town-owned roads and Town-owned parking lots in the UIS Watersheds between May and October each year that this BMP is in effect. The Downtown Village area between Main, School, Bow, Depot, and West Street will be swept weekly between May and October of each year that this BMP is in effect. A dual-vacuum, high-efficiency street sweeper will be used to remove material from the impervious surfaces. The Town will schedule its sweepings prior to precipitation events and between long periods of dry weather.

2.7.5 BMP 7.5 – Enhanced Public Street and Public Parking Lot Sweeping in Concord Gully Brook Watershed

Responsible Party – Public Works Director

Measurable Goal 7.5 – The Town will conduct monthly street sweeping on all Town-owned roads and public parking lots in the UIS Watersheds between May and October each year that this BMP is in effect. The Downtown Village area between Main, School, Bow, Depot, and West Street will be swept weekly between May and October of each year that this BMP is in effect. A dual-vacuum, high-efficiency street sweeper will be used to remove material from the impervious surfaces. The Town will schedule their sweepings prior to precipitation events and between long periods of dry weather.

3 GENERAL REQUIREMENTS

3.1 Certification

The General Permit requires that this Stormwater Management 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: _____

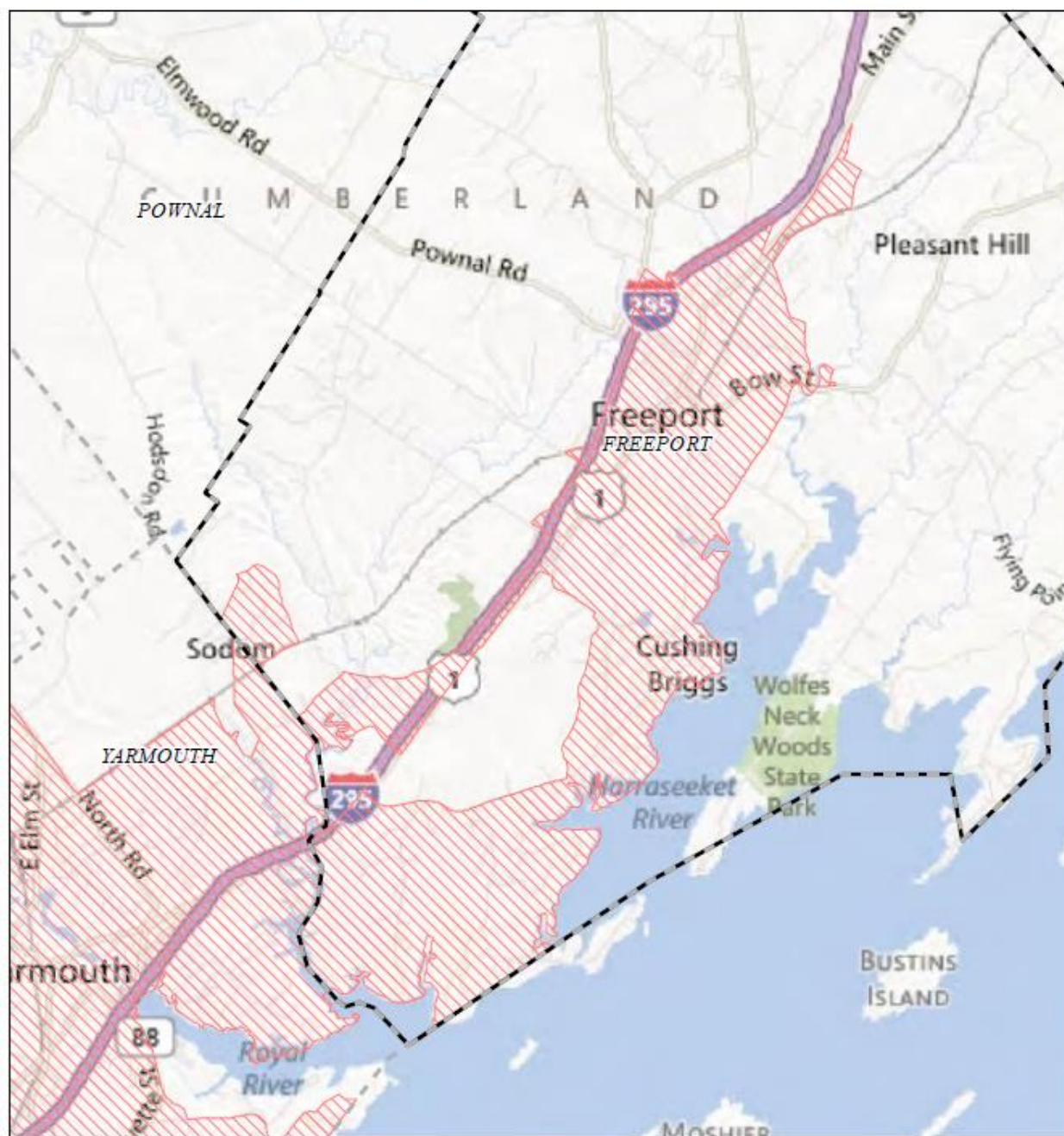
Peter Joseph

Date: _____

6/23/22


Title: Town Manager

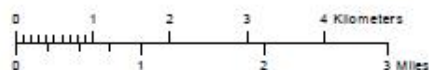
URBANIZED AREA MAP



NPDES Phase II Stormwater Program
Automatically Designated MS4 Areas

Freeport ME

 Regulated Area (2000 + 2010 Urbanized Area)



Town Population: **7872**
Regulated Population: **3100**
(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

NOTICE OF INTENT and PERMITTEE-SPECIFIC MAINE 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 Freeport			Permittee ID #	MER041017
Name and title of chief elected official or principal executive officer	Peter Joseph, Town Manager				
Mailing Address	30 Main Street				
Town/City	Freeport	State	ME	Zip Code	04032
Daytime Phone	207-865-4743	Email	pjoseph@freeportmaine.com		
PRIMARY CONTACT PERSON FOR OVERALL STORMWATER MANAGEMENT PROGRAM (if different than PEO/CEO)					
Name and Title	Adam Bliss, Town Engineer				
Mailing Address	30 Main Street				
Town/City	Freeport	State	ME	Zip Code	04032
Daytime Phone	207-865-4743	Email	abliss@freeportmaine.com		
STORMWATER MANAGEMENT PLAN (SWMP)					
Urbanized Area (sq. mi.)	3.5				
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 (<i>attach additional sheets as necessary</i>): Concord Gully Brook, Frost Gully Brook, Cousins River and Redding Creek, Harraseeket River and tributaries including Mill Brook, and Allen Range Brook.					
List of impaired waterbodies that receive stormwater from the regulated small MS4 (<i>attach additional sheets as necessary</i>): Concord Gully Brook, Frost Gully Brook, Cousins River Estuary, Harraseeket River					
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				Date	3/30/21

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	



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

June 2, 2022

Mr. Peter Joseph
Town Manager
30 Main Street
Freeport, Maine 04032
e-mail: pjoseph@freeportmaine.com

**RE: Municipal Separate Storm Sewer System (MS4) General Permit #MER041000
Final - MER041017**

Dear Mr. Joseph:

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
Irene Saumur, DEP/CMRO
Richard Carvalho, USEPA

Lori Mitchell, DEP/CMRO
Damien Houlihan, USEPA
Newton Tedder, USEPA

Holliday Keen, DEP/CMRO
Nathan Chien, USEPA
Ivy Frignoca, FOCB

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

**DEPARTMENT ORDER
IN THE MATTER OF**

TOWN OF FREEPORT)	MUNICIPAL SEPARATE STORM
FREEPORT, CUMBERLAND COUNTY, MAINE)	SEWER SYSTEM
MER041017)	MER041000
)	GENERAL PERMIT COVERAGE
APPROVAL)	RENEWAL

The Department of Environmental Protection (Department/DEP) has considered the Notice of Intent submitted by the TOWN OF FREEPORT (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 31, 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, and 6.5.

Impaired Waters

The Town's regulated MS4 has discharges to Frost Gully Brook and Concord Gully Brook, which are classified as Urban Impaired Streams in Maine DEP Rule Chapter 502 and are listed in the Maine Statewide Impervious Cover Total Maximum Daily Load (TMDL). Frost Gully Brook is also listed in the Maine Statewide Bacteria TMDL. 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, 7.4, and 7.5.

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 FREEPORT, 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 2 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 31, 2021.
The Notice of Intent was accepted by the Department on April 5, 2021.

FILED

June 2, 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 and the Friends of Casco Bay (FOCB). 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, and 6.5.

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.

Impaired waters

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, 7.4, and 7.5.

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).”

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 SMWP 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: 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) - 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: Based on Responses #1 and #2 of this order, the language in question has been removed from the permittee's DEP permittee specific order. The permittee's SWMP (MCM7) does contain language with direct actions the permittee 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 multi-section blades that adhere to shape of roads (or other kind of blade)*
- *Pretreatment of roads with brine when appropriate*
- *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, real time conditions.*

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



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 ([35-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.



[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 Maine 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.

EDUCATION & OUTREACH TOOLS, LEVELS OF EFFORT, AND EFFECTIVENESS BENCHMARKS

Audience appropriate social media platforms will be determined by platform use demographics each year.

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
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 Frost Gully Brook and Concord Gully 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

IDDE PLAN AND QAPP

**Development Review Process (SOP)
with Construction Site Erosion and Sedimentation Control (ESC) Inspection Form**

