

**State of Maine
Department of Environmental Protection
Bureau of Land and Water Quality**

**General Permit for the Discharge of Stormwater from
Maine Department of Transportation and
Maine Turnpike Authority
Municipal Separate Storm Sewer Systems**



MER043000

General Permit— Maine Department of Transportation (Maine DOT) and Maine Turnpike Authority (MTA) Municipal Separate Storm Sewer Systems

Maine Pollutant Discharge Elimination System (MEPDES)

Table of Contents

Part I.-General Coverage Under This Permit	1
A. Permit Coverage	1
B. Authority	1
C. Continuation of General Permit Coverage.....	1
D. Limitations on Coverage.....	2
Part II.-Definitions	3
Part III.-Procedure	6
A. NOI Requirements	6
B. Scope of NOI	6
C. Submission.....	6
D. Contents of NOI.....	7
E. Obtaining Authorization	8
Part IV.-Requirements	9
A. Stormwater Program Management Plan	9
B. Keeping Plans Current	10
C. Failure to Prepare or Amend Plan.....	10
D. Evaluation and Assessment	10
E. Assessment of Stormwater Program Management Plan	11
F. Signature Requirements	11
G. Annual Fee.....	11
H. Minimum Control Measures.....	11
I. Sharing Responsibility	16
J. Reporting and Record Keeping.....	17
K. Impaired Waters and Total Maximum Daily Load (TMDL).....	18
Part V.-Standard Conditions	18
A. Removed Substances	18
B. Other Applicable Conditions	18
C. Monitoring Requirements	18
D. Other Information	19
E. Endangered Species	19
F. Individual Permit or Alternative General Permit	19
Appendix A Regulated Small MS4 Municipalities	20
Appendix B Urban Impaired Streams	21

PART I. General Coverage Under This Permit

A. Permit Coverage. This General Permit authorizes the direct discharge of stormwater from a regulated small Municipal Separate Storm Sewer System (MS4) operated by Maine Department of Transportation (“MaineDOT”) or Maine Turnpike Authority (“MTA”) to a MS4 or waters of the State other than groundwater. Dischargers must meet the requirements of this General Permit and applicable provisions of Maine's waste discharge and water classification statutes and rules. Compliance with this General Permit authorizes MaineDOT and MTA to discharge stormwater, pursuant to Water Pollution Control Law, 38 M.R.S.A. § 413, as described below. Discharges listed in Part I(D)(2-6) are excluded from coverage under this General Permit. Unless otherwise explicitly noted, this permit only covers operations or activities associated with stormwater runoff from the regulated small MS4 within an identified Urbanized Area as determined by the inclusive sum of the 2000 and 2010 Decennial Census by the Bureau of Census.

1. Effective date of this general permit. This General Permit is effective July 1, 2013, and authorization to discharge under this General Permit expires at midnight June 30, 2018. The Department intends subsequent re-issuance of this Municipal Separate Storm Sewer System General Permit. This General Permit replaces Maine’s General Permit for the Discharge of Stormwater from Maine Department of Transportation and Maine Turnpike Authority Small Municipal Separate Storm Sewer Systems issued July 1, 2008.

B. Authority. A waste discharge permit is required for the direct or indirect discharge of pollutants to waters of the State.¹ A general permit may be issued for point source discharges (direct discharges) of stormwater.² A violation of a condition or requirement of a general permit constitutes a violation of Maine's water quality laws and the federal Clean Water Act, and subjects the discharger to penalties under Organization and Powers, 38 M.R.S.A. § 349, and § 309 of the Clean Water Act.³ Nothing in this General Permit is intended to limit the Department's authority under the waste discharge and water classification statutes or rules. This General Permit does not affect requirements under other applicable Maine statutes such as Site Location of Development (Site Law), Stormwater Management, and Natural Resources Protection (NRPA).

This General Permit does not prevent MaineDOT or MTA from adopting stricter standards than contained in this General Permit, or in state or federal law.

C. Continuation of General Permit Coverage. Coverage under this General Permit will be continued provided there are no changes in the discharge as described in the NOI. If changes occur or are proposed, the permittee having filed the NOI shall notify the Department, as specified in this General Permit. Upon reissuance of a new general permit, permittees wishing to continue coverage shall submit a new NOI to the Department.

If this permit is not reissued, revoked or replaced prior to the expiration date, but the Department makes a determination that it is to be renewed, with or without changes, it will be administratively continued and remain in force and effect. In that case, any permittee who

¹ See 38 M.R.S.A. § 413.

² See General Permits for Certain Wastewater Discharges, 06-096 CMR 529(2)(a)(2)(i) (last amended June 27, 2007).

³ See 40 CFR §122.36.

was granted permit coverage prior to the expiration date will automatically remain covered by the continued permit until the earlier of:

1. Reissuance or replacement of this General Permit, at which time the permittee must submit a new NOI to the Department in accordance with the new General Permit to maintain authorization to discharge;
2. The permittee's submittal of a Notice of Termination;
3. Issuance of an individual permit for the permittee's discharges; or
4. A formal permit decision by the Commissioner not to reissue this General Permit, at which time the permittee shall seek coverage under an alternative general permit or individual permit.

D. Limitations on Coverage. This General Permit does not authorize a stormwater discharge that requires an individual waste discharge permit or is required to obtain coverage under another waste discharge general permit. The Department may require any person with a discharge authorized by this General Permit to apply for and obtain an individual permit.⁴ Any interested person may petition the Department to take action under this paragraph. Examples of when an individual waste discharge permit may be required are specified in rule.⁵

1. **Compliance with this General Permit.** This General Permit does not authorize a stormwater discharge that is not in compliance with the requirements of this General Permit, or a discharge that fails to reduce the discharge of pollutants from the permittee's MS4 to the maximum extent practicable ("MEP"), to protect water quality, and to satisfy the water quality requirements of the Clean Water Act. If the Department determines that the standards of this General Permit have not been met, the Department shall notify the person and may:
 - a. Authorize coverage under this General Permit after appropriate controls and implementation procedures designed to bring the discharge into compliance with this General Permit and water quality standards have been implemented as determined by the Department;
 - b. Require an individual waste discharge permit;
 - c. Inform the person that the discharge is prohibited; or
 - d. Take enforcement action to address the violation(s).
2. **Non-stormwater.** This General Permit does not authorize discharges that are mixed with sources of non-stormwater, other than those discharges in compliance with Part IV(H)(3)(b).
3. **Discharge of hazardous substances, chemicals, or oil.** This General Permit does not authorize the discharge of hazardous substances, chemicals, or oil resulting from an on-site spill.
4. **Total Maximum Daily Load (TMDL).** This General Permit does not authorize a direct discharge that is inconsistent with any EPA approved TMDL waste load allocation,

⁴ See 06-096 CMR 529(2)(B)(3).

⁵ See 06-096 CMR 529(2)(B)(3)(i)(A)-(G)

except where the TMDL does not provide adequate information to develop specific measures to protect water quality, and any implementation plan for the waterbody to which the direct discharge drains.

5. **Violation of water quality standards.** This General Permit does not authorize a discharge that causes or contributes to a violation of a water quality standard. Discharges covered under this permit may not:
 - a. Contain any pollutant, including toxic substances, in quantities or concentrations, which may cause or contribute to any adverse impact on the receiving water;
 - b. Be to a receiving water which is not meeting its classification standard for any characteristic which may be affected by the discharge; or
 - c. Impart color, taste, turbidity, radioactivity, settleable materials, floating substances or other properties that cause the receiving water to be unsuitable for the designated uses ascribed to its classification.

6. **Waste discharge license (groundwater).** A waste discharge license (WDL) may be required for the discharge of stormwater through any well or wells, including drywells and subsurface fluid distribution systems. For complete requirements, see Rules To Control The Subsurface Discharge Of Pollutants, 06-096 CMR 543 (effective October 6, 2006), and Stormwater Management, 06-096 CMR 500 Appendix D (last amended December 27, 2006).

A “subsurface fluid distribution system” is an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground. A “well” is a bored, drilled, or driven shaft the depth of which is greater than the largest surface dimension, whether the shaft is typically dry or contains liquid; or a dug hole the depth of which is greater than the largest surface dimension; or a subsurface fluid distribution system. “Well injection” means the subsurface discharge of fluids into or through a well.

7. **Reopener.** This General Permit may be modified or reopened by the Department as provided in Water Pollution Control Law, 38 M.R.S.A. § 414-A(5).

PART II. Definitions

The following terms have the following meanings as used in this General Permit in addition to the definitions found in Chapter 520 of the Department’s rules, and applicable statutory definitions.

- A. **Applicant.** “Applicant” means a transportation entity, MaineDOT or MTA, which files an NOI pursuant to Part III of this General Permit.

- B. **Best Management Practices (“BMP”).** “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

- C. **Commissioner.** “Commissioner” means the Commissioner of the Maine Department of Environmental Protection.

D. Construction Activity. "Construction Activity" or "activity" means:

1. Construction activity including one acre or more of disturbed area, or an activity with less than one acre of total land area that is part of a common plan of development or sale, if the common plan of development or sale will ultimately disturb equal to or greater than one acre⁶; or
2. Any other construction activity designated by the Department based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the State.

E. Department. "Department" means the State of Maine Department of Environmental Protection.

F. Discharge. "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to waters of the State other than groundwater. "Direct discharge" or "point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.⁷

G. Disturbed Area. "Disturbed Area" means all land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation or removing vegetation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance or exposure of soil is not considered "disturbed area" "Disturbed area" does not include routine maintenance, but does include redevelopment and new impervious areas. "Routine maintenance" is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces while maintaining the original line and grade, hydraulic capacity and original purpose of the facility is considered routine maintenance.

H. Illicit Discharge. "Illicit Discharge" means any non-permitted discharge to a regulated small MS4 or the waters of the State that does not consist entirely of stormwater or authorized non-stormwater discharges identified in Part IV (H)(3)(b).

I. Impaired Waterbody. "Impaired Waterbody" means a waterbody that is not attaining water quality criteria or standards, as determined by the Department.

J. Low Impact Development ("LID"). "Low Impact Development" or "LID" means an approach to land development or redevelopment that provides water quality treatment of stormwater as close to its source as possible.

K. Maximum Extent Practicable ("MEP"). "Maximum Extent Practicable" or "(MEP)" means available and feasible considering cost, existing technology, and logistics based on the overall purpose of the project. MEP is the Clean Water Act standard that establishes the level of pollutant reductions that operators of regulated small MS4s must achieve. The reduction

⁶ Common plan of development or sale has the same meaning as defined in the Maine Construction General Permit

⁷ See Water Classification Program, 38 M.R.S.A. § 466(5) (definition of "direct discharge") and 06-096 CMR 520 (definition of "point source").

of pollutants is achieved by implementing BMPs and other requirements of this General Permit in an iterative process that continually adapts to current conditions and BMP effectiveness, on a location-by-location basis, taking into consideration such factors as condition of receiving waters, specific local concerns, a comprehensive watershed plan, MS4 size, climate implementation schedules, current ability to finance the program, beneficial uses of receiving water, hydrology, geology, and capacity to perform operation and maintenance. The goal of the General Permit, and the projects required to be undertaken under the General Permit, is to protect and improve water quality.

- L. MaineDOT.** “MaineDOT” means the Maine Department of Transportation
- M. MTA.** “MTA” means the Maine Turnpike Authority
- N. Municipal Separate Storm Sewer System (“MS4”).** “Municipal Separate Storm Sewer System” or “(MS4)” means a conveyance or system of conveyances designed or used for collecting or conveying stormwater (other than a publicly owned treatment works (POTW), as defined at 40 CFR 122.2, or a combined sewer), including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains owned or operated by any municipality, sewer or sewage district, Maine Department of Transportation (MaineDOT), Maine Turnpike Authority (MTA), State agency or Federal agency or other public entity that discharges directly to waters of the State other than groundwater.
- O. Notice of Intent (“NOI”).** “Notice of Intent” or “NOI” means a notification of intent to seek coverage under this General Permit, as provided in Part III(A), made by the applicant to the Department on a form provided by the Department.
- O. Outfall.** “Outfall” means the point source where the MS4 discharges from a pipe, ditch or other discrete conveyance to the waters of the State other than groundwater, or to another MS4 and does not include pipes, such as cross culverts, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.
- P. Permittee.** “Permittee” means either of the transportation entities authorized under this General Permit: Maine Department of Transportation (MaineDOT) or the Maine Turnpike Authority (MTA).
- Q. Person.** “Person” means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity which creates, initiates, originates or maintains a discharge authorized by this General Permit.⁸
- R. Redevelopment.** “Redevelopment” means, an activity undertaken to redevelop property in which the new developed area, not including maintenance, is located within the same footprint as the existing developed area. Redevelopment projects do not include such activities as exterior remodeling.
- S. Regulated Small MS4.** “Regulated Small MS4” means any Small MS4 authorized by this General Permit or the general permits for the discharge of stormwater from State or

⁸ See Protection and Improvement of Waters Laws – General Provisions, 38 M.R.S.A. § 361-A(4).

Federally-owned Small MS4s or Small Municipal MS4s, including all those located partially or entirely within an Urbanized Area (UA). A list of these regulated small MS4 municipalities is included in Appendix A of this General Permit

- T. Small MS4.** “Small MS4” means any MS4 that is not already covered by the Phase I MS4 stormwater program including municipally owned or operated storm sewer systems, State or Federally-owned systems, such as colleges, universities, prisons, MTA and MaineDOT road systems and facilities, and military bases and facilities.
- U. Stormwater.** “Stormwater” means the part of precipitation including runoff from rain, or melting ice and snow that flows across the surface as sheet flow, shallow concentrated flow, or in drainageways. “Stormwater” has the same meaning as “storm water”.
- V. Stormwater Pollution Prevention Plan (“SWPPP”).** Stormwater Pollution Prevention Plan (“SWPPP”) means a written plan developed and implemented by each permittee to reduce or eliminate pollutants for facilities described in this General Permit.
- W. Total Maximum Daily Load (“TMDL”).** “Total Maximum Daily Load” or “TMDL” means the maximum capacity of a surface water to assimilate a pollutant as established by the Department and approved by the U.S. Environmental Protection Agency (“EPA”), consistent with the definitions set forth in 40 CFR Part 130, including pollutants contributed by point and non-point sources, natural background and a margin of safety.
- X. Urban Impaired Stream.** “Urban Impaired Stream” means a stream that fails to meet water quality standards because of effects of stormwater runoff from developed land. Urban impaired streams are those streams identified and listed in Chapter 502, Appendix B of the Department of Environmental Protection Rules as of the issuance of this General Permit. A list of the urban impaired streams is included in Appendix B of this General Permit.
- Y. Urban Runoff.** “Urban Runoff” means stormwater runoff from an Urbanized Area, and may contain elevated levels of pollutants such as hydrocarbons, heavy metals and nutrients which may cause or contribute to a waterbody’s impairment. In many instances frequent elevated storm flows, low base flows, and high temperatures will also be significant contributors to a waterbody’s impairment.
- Z. Urbanized Area (“UA”).** “Urbanized Area” or “UA” means the areas of the State of Maine so defined by the inclusive sum of the 2000 decennial census and the latest decennial census (2010) by the U.S. Bureau of the Census.

Part III. Procedure

- A. NOI Requirements.** MaineDOT and MTA each shall file with the Department a NOI form that meets the requirements of Part III of this General Permit. The NOI must be submitted no later than July 30, 2013. By submitting a signed NOI, the applicant agrees to comply with the terms and conditions of this General Permit.
- B. Scope of NOI.** MaineDOT/MTA shall each register on one set of NOI form(s) for all discharges from the regulated small MS4s within the UAs operated by MaineDOT/MTA.
- C. Submission.** The applicant shall file the NOI using a form(s) provided by the Department. The applicant shall sign the NOI in accordance with Part III(D)(2). The NOI must be

submitted to the Department with the appropriate fee, with failure of proper payment resulting in summary rejection of the NOI as incomplete. An applicant is not prohibited from submitting an NOI after July 30, 2013. If a late NOI is submitted, authorization to discharge is only for discharges that occur after obtaining authorization pursuant to Part III(E). The Department reserves the right to take appropriate enforcement actions for any unpermitted discharges.

D. Contents of NOI

1. **NOI Form.** The NOI must be filed on a form(s) provided by the Department and must include the following.
 - a. Name of transportation entity and the name, title, address, email address, and telephone number of the principal stormwater contact person.
 - b. Permit number assigned to the transportation entity under the previous Department MS4 permit.
 - c. Name of the Urban Impaired stream(s), non-impaired stream(s), wetlands and waterbody(s) to which the transportation entity discharges within each regulated small MS4 municipality.
 - d. Maps or a narrative description indicating roads and drainage ways that the permittee is responsible for within the UA.
2. **Signatory Requirements.** All Notices of Intent, reports certifications or information either submitted to the Department, or that this permit requires to be maintained by the permittee, must be signed and certified in accordance with Applications for Waste Discharge Licenses, 06-096 CMR 521(5) (effective date January 23, 2001).

The signature of the transportation entity's chief elected official or principal executive officer, and any individual or individuals responsible for actually preparing the NOI form, each of whom shall certify in writing as follows:

“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 that 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.”

3. **Filing an NOI form.** An NOI must be filed with the Department at the following address:

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

4. **Additional information.** The Department may require an applicant to submit additional information that the Department reasonably deems necessary to evaluate the consistency of the subject activity with the requirements for authorization under this General Permit.

E. Obtaining Authorization.

1. **Interim Coverage.** Upon the Department's receipt of the NOI, the applicant is authorized to discharge on an interim basis for up to 180 days from the effective date of this permit. The applicant shall meet the standards contained in this General Permit during the interim period. Interim coverage will terminate earlier than 180 days if a complete Stormwater Program Management Plan has been submitted by the applicant, reviewed by the Department, and coverage under this permit is either granted or denied by the Department. The applicant is authorized to discharge under the terms and conditions of this permit when coverage under this permit is granted. The Department shall provide written notice of coverage or denial of the NOI.

2. **Public Notice and Comment.**

- a. **Applicant Public Notice and Comment.** Applicants are required to publish a public notice that the NOI is being filed with the Department of Environmental Protection. The notice must be published within 30 days prior to the NOI being sent to the Department. The notice may be published in the legal advertisement section of a daily or weekly newspaper having general circulation in the area where the discharges authorized by this permit will occur. Applicants are required to provide a letter of notice to all regulated small MS4 municipalities into which the transportation entity discharges, and also to persons who have requested to be notified of the NOI application, provided that the Department has provided the mailing addresses of such interested persons to the respective applicants. If the public notice is not published at the proper time, or if the NOI is returned because it is incomplete, the Department may require that notice be published a second time.
- b. **Department Public Notice and Comment.** The Department will provide a public notice and opportunity for comment on the contents of the submitted NOIs and Stormwater Program Management Plans by making information available on the internet.

The public comment period is a minimum of 20 days. Based on a review of the NOI or other information, the Department may extend the public comment period, require additional information or may deny coverage under this permit and require submission of an application for an individual or alternative MPDES permit.

3. **Action by Commissioner.** The Commissioner shall return as incomplete any NOI that does not satisfy the requirements of Part III (C) and Part III (D) of this General Permit.
 - a. The Commissioner may deny coverage under this General Permit if more than 30 days have elapsed following the applicant's receipt of a written request by the Commissioner that the applicant submit additional information required pursuant to this General Permit and the applicant has not timely and completely submitted such information.

- b.** The Commissioner shall deny coverage under this General Permit if the subject activity is ineligible for this General Permit, if the applicant cannot or is unlikely to comply with this General Permit, or for any other reason provided by law.
- 4. Denial of Coverage.** Denial of coverage under this General Permit constitutes notice to the applicant that the subject activity may not lawfully be conducted or maintained without issuance of an individual MEPDES permit or coverage under an alternative general permit. Denial of coverage under this General Permit must be in writing.

Part IV. Requirements

MaineDOT/MTA shall at all times continue to meet the requirements for authorization set forth in Part I of this General Permit. In addition, each permittee shall assure that authorized activities are conducted in accordance with the following conditions.

A. Stormwater Program Management Plan. Each permittee shall develop, implement, and enforce a Stormwater Program Management Plan (“Plan”) implementing six minimum control measures, set forth in Section H below, that are designed to reduce the discharge of pollutants from the transportation entity’s regulated small MS4 to the maximum extent practicable to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. For the purposes of this permit, narrative effluent limitations requiring implementation of BMPs are generally the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the MEP) and to protect water quality. The Plan and all Minimum Control Measures must be substantially implemented by June 30, 2013.

The permittee shall describe in its Stormwater Program Management Plan how it will reduce or eliminate polluted stormwater runoff to the maximum extent practicable from its separate storm sewer system within the UA. The “Plan” must be signed in accordance with the signatory requirements in Part III (D)(2). Upon receipt of the NOI and Stormwater Program Management Plan, the Department shall post the NOIs and “Plans” on the Department’s website to provide public notice. The permittee shall submit the regulated small MS4’s comprehensive Stormwater Program Management Plan for Department review by no later than December 2, 2013.

1. Stormwater Program Management Plan Requirements.

- a.** For each of the six Minimum Control Measures in Part IV(H), the following information must be included:
 - i.** The measurable goal(s) by which each BMP will be evaluated;
 - ii.** The person(s) or position(s) responsible for implementing each BMP; and
 - iii.** The date by which each BMP will be implemented including as appropriate, time lines and milestones for implementation of BMPs.

Note: Guidance documents that may be used in the development of BMPs and measurable goals include, but are not limited to, the following:

- EPA's BMP menu,
 - EPA's guidance on Measurable goals
 - MaineDOT's Best Management Practices for Erosion & Sedimentation Control
- b. Additional stormwater treatment controls within the UA are necessary for Urban Impaired Stream watersheds. For discharges from the permittee's infrastructure and operations within the UA, to an Urban Impaired Stream, the permittee shall implement structural and non-structural measures to the maximum extent practicable necessary to control, the discharge of stormwater runoff including known pollutants of concern. Pollutant(s) of concern refer to the pollutant(s) identified as causing or contributing to the waterbody's impairment. Urban runoff may be used as a surrogate pollutant of concern where information is lacking on specific causes of impairment.
- B. Keeping Plans Current.** The permittee shall keep the Plan current. Circumstances when the Plan must be amended include the following:
1. **Amended plan.** The Plan must be amended if the Department or the permittee determines that:
 - a. The actions required by the Plan fail to ensure or adequately protect against pollution of the waters of the State other than groundwater;
 - b. The Plan does not prevent the potential for a significant contribution of pollutants to waters of the State other than groundwater;
 - c. The Plan does not meet one or more requirements of this General Permit; or
 - d. New information results in a shift in the Plan's priorities.
 2. **Department notification.** The Department shall notify the permittee if Department determines that the Plan must be amended. Within 30 days of such notification, unless otherwise specified by the Department in writing, the permittee shall respond to the Department indicating how the permittee intends to modify the Plan to address these requirements. Within 90 days of this response or within 120 days of the original notification, whichever is less, unless otherwise specified by the Department in writing, the permittee shall revise the Plan. The permittee shall perform all actions required by the revised Plan in accordance with the timelines in the revised Plan, and certify to the Department that the requested changes have been made and implemented.
 3. **Permittee information.** The permittee shall provide such information as the Department requires to evaluate the Plan and its implementation. The permittee shall note minor modifications to the Plan in its annual report. Major modifications to the Plan such as a change in the Plan's priorities must be submitted to the Department and approved prior to implementation.
- C. Failure to Prepare or Amend the Plan.** Failure to complete or update a Plan in accordance with this General Permit does not relieve a permittee of responsibility to implement actions required to protect the waters of the State other than groundwater and to comply with all conditions of this General Permit.
- D. Evaluation and Assessment.** As specified in Part IV(J)(1), the permittee shall evaluate program compliance, the appropriateness of identified best management practices, and progress towards achieving identified measurable goals.

E. Assessment of Stormwater Program Management Plan. The Plan must address the six Minimum Control Measures as required in this permit. The Plan must, at a minimum, include the measures indicated as required within the UA of the municipality in which the permittee operates an MS4. The permittee may also include in the Plan those measures indicated as suggested and any other measures the permittee deems appropriate. This General Permit only requires implementation of the minimum control measures within the UA to the extent the measures will have an impact on the MS4, and for transportation facilities, operations and activities within the UA, that discharge to waters of the State other than groundwater.

F. Signature Requirements

1. **Signature.** The Plan must be signed by the chief elected official or principal executive officer. The Plan must be retained by the chief elected official or principal executive officer for the duration of the permit period and copies must be available and retained by permittee's officials or employees responsible for implementation of the Plan.
2. **Plan availability.** The permittee shall make a copy of the Plan available to the following immediately upon request:
 - a. The Commissioner of the Department;
 - b. In the case of a regulated small MS4 adjacent to or interconnected with the permittee's storm sewer system, to the operator of that regulated small MS4; and
 - c. In the case of a regulated small MS4 stormwater discharge to a water supply watershed, to the public water supply company.

G. Annual Fee. Coverage under an existing general permit will be continued upon payment of an annual fee. An annual fee must be submitted by no later than July 15 each year, starting July 15, 2013. Fees must be paid by check or money order payable to **Treasurer, State of Maine**.

H. Minimum Control Measures. For each Minimum Control Measure, the permittee shall: define appropriate BMPs; designate a person(s) responsible for each BMP; define a time line for implementation of each BMP; and define measurable goals for each BMP. The Minimum Control Measures to be included in the Plan are as follows.

1. Public education and outreach on stormwater impacts.

The three goals of this minimum control measure are:

1. To raise awareness that polluted stormwater runoff is one of the most significant sources of water quality problems for Maine's waters;
2. To motivate staff and contractors to use Best Management Practices (BMPs) which reduce polluted stormwater runoff; and
3. To reduce polluted stormwater runoff as a result of increased awareness and utilization of BMPs.

a. Required Strategies.

- i. Raise Awareness (Goal 1): Beginning July 1, 2013, each permittee shall

continue raising awareness of stormwater issues amongst employees and contractors.

1. Each permittee shall establish measurable goals. Progress on these goals must be reported annually for process indicators and in years 1 (background), 3 and 5 for impact indicators.

NOTE: Measurable goals are described in the Phase II rule as BMP design objectives or goals that quantify the progress of program implementation and the performance of BMPs. Measurable goals are objective markers or milestones that each permittee (and the permitting authority) use to track the progress and effectiveness.

NOTE: Process indicators relate to the execution of the program (e.g., Percent or number of employees who attend a training. Was a measurable action completed such as new information posted at a facility or job site?). Impact indicators relate to the achievement of the goals and objectives of the program (e.g., what effect did the effort have on changing behavior? Examples may include the percent of employees who can correctly describe: sources of stormwater pollution, proper spill response, or maintenance of a BMP.)

2. Each permittee shall include a review in its fifth year Annual Report. The review must include an analysis of the process indicators and impact indicators.

- ii. Targeted BMP Adoption (Goal 2): Beginning July 1, 2013, each permittee shall continue outreach efforts from the previous permit cycle while encouraging employees and contractors to utilize BMPs that minimize stormwater pollution.

1. Each permittee shall set measurable goals. Progress on these goals must be reported annually for process indicators and in years 1 (background), 3 and 5 for impact indicators.

2. The permittee shall include a review in fifth year Annual Report. The review must include an analysis of the process indicators and impact indicators.

- iii. Compliance with this minimum control measure will be based upon whether the permittee:

- a) Continued existing education and outreach efforts;
- b) Reported process and impact indicators; and
- c) Completed annual reports and a 5-year analysis of the plans.

b. Suggested Strategies.

- i. Partnering with local organizations: A critical mass is most often needed for new ideas to be accepted and behaviors adopted before there is a new norm. With this in mind, a permittee may wish to become involved with the local regulated stormwater municipalities. Joint training events, coordination of stormwater work in the community, and participation in other municipal events may help to strengthen the effectiveness of protecting Maine's water resources.

2. Public involvement and participation.

The goal of this minimum control measure is to involve the permittees community

including various departments, bureaus or facilities, and when applicable involve regulated small MS4 communities in both the planning and implementation process of improving water quality and reducing quantity via the stormwater program. An active and involved participation process is crucial to the success of a stormwater management program because it allows for broader support, additional expertise and a conduit to other programs.

a. Required Strategies.

- i. Public notice requirements. The permittee shall comply with applicable state and local Public Notice requirements using effective mechanisms for reaching the public, and comply with the public notice requirements of the Maine Freedom of Access Act, 1 M.R.S.A. §§ 401 et seq. (“FOAA”) when the permittee involves stakeholders in the implementation of this General Permit. The permittee shall document the meetings and attendance through the annual report as a way of measuring this goal.
- ii. Coordinate with regulated community(s). The permittee shall coordinate efforts by providing information on planned construction, and maintenance activities to Regulated Small MS4 municipal stormwater coordinators. The permittee shall develop a strategy to ensure involvement, mutual cooperation and coordination with the Regulated Small MS4 municipalities, and report on such efforts annually pursuant to Part IV(J) on joint efforts, meetings attended, projects and coordination.

3. Illicit discharge detection and elimination.

a. Required Strategies. Each permittee shall develop, implement and enforce a program to detect and eliminate illicit discharges and non-stormwater discharges, as defined in 06-096 CMR 521(9)(b)(2), except as provided in Part IV(H)(3)(b) of this permit.

- i. By June 30, 2015, each permittee shall ground verify its watershed based storm sewer system infrastructure map(s) in its highest priority watershed within the UA showing the location of all stormwater catch basins, connecting surface and subsurface infrastructure depicting the direction of in-flow and out-flow pipes, and the locations of all discharges from all stormwater outfalls operated by the regulated small MS4. Each catch basin must be uniquely identified to facilitate control of potential illicit discharges, and to ensure proper operation and maintenance of the structures. For each outfall, the following information must be included: type, (e.g. 24” concrete pipe or ditch) material, and size of conveyance, or channelized flow the name and location of the immediate surface waterbody or wetland to which the stormwater runoff eventually discharges. If an outfall does not discharge directly to a named waterbody, identify the name and location of the nearest named waterbody to which the outfall eventually discharges.
- ii. Each permittee shall continue to implement a prioritized dry weather outfall inspection plan based on drainage areas such as an urban impaired stream watershed, or based on a watershed or sub-watershed that the permittee has identified as having the greatest potential threat to the receiving water. (See *Guidelines and Standard Operating Procedures For Stormwater Phase II*

Communities in Maine volumes 1 and 2)

In the first permit year, each permittee shall petition regulated MS4 municipalities to conduct a coordinated dry weather MS4 inspection program. In permit years two through five each permittee shall implement at least two coordinated watershed based illicit discharge detection and elimination programs. Permittees shall continue to implement prioritized dry weather inspections for remaining urban impaired streams within the UA. MaineDOT/MTA shall continue to implement its procedure/policy or protocol that details the steps that must be taken when an illicit discharge is identified during these inspections to locate the source of the illicit discharge and eliminate it.

iii. MaineDOT/MTA shall implement an illicit discharge detection and elimination program to their open ditch system within their two highest priority watersheds.

b. This permit authorizes the following non-stormwater discharges provided they do not contribute to a violation of water quality standards, as determined by the Department; these discharges must be addressed in the Plan if they are identified by the permittee as significant contributors of pollutants to the regulated small MS4.

- 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)
- hydrant flushing and fire fighting activity runoff
- water line flushing and discharges from potable water sources

4. Construction site stormwater runoff control.

a. Required Strategies. Continue to implement, and enforce a program or modify an existing program, to reduce pollutants in any stormwater runoff including discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste that may cause adverse impacts to water quality from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of stormwater discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Each permittee must include standard operating procedures for addressing and implementing compliance inspections and enforcement actions.

5. Post-construction stormwater management in new development and redevelopment.

a. Required Strategies.

- i. Each permittee shall continue to implement, and enforce a 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 MS4 or directly to waters of the State other than groundwater. This program must ensure that controls are in place that are designed to prevent or minimize water quality impacts.
- ii. Each permittee shall develop and implement strategies that include a combination of structural and/or non-structural best management practices (BMPs) appropriate for its regulated small MS4.
- iii. To ensure adequate long-term operation and maintenance of post construction BMPs, each permittee shall develop and implement, as part of its Stormwater Program Management Plan, an approved BMP inspection schedule that at a minimum stipulates that new BMPs are inspected at least once during the first year of installation. Post construction BMP inspections must determine if the BMP is adequately maintained and is functioning as intended or requires maintenance. If the post construction BMP requires maintenance, provide a record of the deficiency and corrective action(s) taken. Each permittee shall include the following in their annual report:
 - The cumulative number of post construction BMPs discharging directly into waters of the State other than groundwater or into or from their separate storm sewer system;
 - 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.

6. Pollution prevention and good housekeeping in community/facility operations. This Minimum Control Measure has the ultimate goal of preventing or reducing pollutant runoff from MaineDOT's/MTA's roads, other paved surfaces, infrastructure, and facilities through the development and implementation of an operation and maintenance ("O&M") program. The O&M program must include the following.

a. Required Strategies

- i. Each permittee shall evaluate and maintain its inventory of potential pollutant sources and associated operations conducted in, on, or associated with facilities, buildings, roads, travel ways including right-of-way owned or operated by the permittee that have the potential to cause or contribute to stormwater or surface water pollution. Each permittee shall continue to implement its written operation and maintenance procedures that include maintenance schedules and inspection procedures to ensure long term operation of structural and non-structural controls that reduce stormwater pollution to the maximum extent practicable. These procedures must address, as applicable:

- proper use, storage and disposal of petroleum and non petroleum products, hazardous materials, waste materials, pesticides and fertilizers including minimizing the use of these products, and an alternative product analysis;
 - spill response and prevention;
 - vehicle and equipment storage, maintenance and fueling;
 - landscaping and lawn care including, where applicable and not subject to other federal regulations, an evaluation of reduced mowing frequencies, establishing and maintaining buffers, cutting vegetation within 100 feet of a stormwater conveyance or surface water;
 - erosion and sedimentation control;
 - disposal of road-killed wildlife.
- ii. Each permittee shall continue to implement annual employee training to prevent and reduce stormwater pollution from permittee operations and facilities. The permittee shall report annually on the types of trainings presented, the number of employees and contractors that received training, the length of the training, and training effectiveness.
- iii. The permittee shall continue to implement a program to sweep all paved streets and parking lots maintained by the permittee at least once a year as soon as possible after snowmelt.
- iv. The permittee shall continue to implement a program to evaluate and, if necessary, clean catch basins and other stormwater structures that accumulate sediment at least once every other year and dispose of the removed sediments consistent with the requirements of current state law. The permittee shall clean catch basins more frequently if inspections indicate excessive accumulation of sediment. Excessive accumulation is greater than or equal to 50 percent filled.
- v. The permittee shall evaluate and implement a prioritized schedule, as necessary, for repairing or upgrading conveyances, structures and outfalls of the regulated small MS4.
- vi. The permittee shall evaluate and implement their stormwater pollution prevention plan(s) (“SWPPP”) for vehicle maintenance facilities operated by the permittee within the UA unless the facility is currently regulated under Maine’s Industrial Stormwater Program. The SWPPP must meet the requirements including the quarterly visual monitoring per Maine’s Multi-Sector General Permit (“MSGP”) published April 26, 2011.

I. Sharing responsibility

- 1. Reliance on other entity.** The permittee may satisfy the requirement to implement a BMP for a Minimum Control Measure by having a third party implement the BMP. For example, if a local watershed organization organized or funded by the permittee to perform an annual “river clean-up”, this event may be used to satisfy a BMP for the Public Participation and the Pollution Prevention and Good Housekeeping Minimum Control Measure.

If the permittee is relying on a third party to implement one or more BMP(s), the permittee shall note that fact in the Stormwater Program Management Plan and annual report required in Part IV(J) below. If the third party fails to implement the BMP(s), the permittee remains responsible for its implementation.

2. **Qualifying State or Federal Program.** If a BMP or Minimum Control Measure is the responsibility of a third party under another NPDES or MEPDES permit, the permittee is not required to include such BMP or Minimum Control Measure in its stormwater management program. The permittee shall reference this qualifying program in its Stormwater Program Management Plan. The permittee is not responsible for implementation of a qualifying program if the third party fails to perform. The permittee shall periodically confirm that the third party is still implementing this measure. If the third party fails to implement the measure, the Plan may be modified to address the measure, if necessary.
3. **Other MS4 Permittees.** The permittee shall identify interconnections within the regulated small MS4s and find ways to cooperate with other regulated entities. These interconnections include both those leaving the system and those entering the system. To the extent allowable under State or local law, the permittee shall cooperate with an interconnected MS4 in instances of discharges impacting a regulated small MS4.

J. Reporting and record keeping requirements

1. The permittee shall keep records required by this permit for at least three (3) years following its expiration or longer if requested by the Commissioner. The permittee shall make records, including its Stormwater Program Management Plan, available to the public at reasonable times during regular business hours.

By September 15, 2014, and annually thereafter by September 15, the permittee shall submit a report for the Department's review and approval to:

Municipal/Industrial Stormwater Coordinator
Department of Environmental Protection
17 State House Station

The report must include the following.

- a. The status of compliance with permit conditions, an assessment of the appropriateness of identified best management practices and progress towards achieving identified measurable goals for each of the Minimum Control Measures.
- b. Results of information collected and analyzed, including monitoring data, if any, during the reporting period.
- c. A summary of the stormwater activities the permittee intends to undertake pursuant to its Plan during the next reporting cycle.
- d. A change in any identified measurable goals that apply to the program elements.
- e. A summary describing the activities, progress, and accomplishments for each of the Minimum Control Measures #1 through #6 (including such items as the status of education and outreach efforts, public involvement activities, stormwater mapping

efforts, dry weather inspections, 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, and the status of the permittee's good housekeeping/pollution prevention program.

2. Changes to the report based on the Department's review comment(s) must be submitted to the Department within 60 days of the receipt of the comment(s).
3. **Suggested.** Provide an estimate of annual expenditures for permit compliance for the reporting period and projected budget for the following year.⁹

K. Impaired waters and total maximum daily load (TMDL). If the waterbody to which a discharge drains is impaired and has an EPA-approved TMDL, then the discharge must be consistent with the TMDL waste load allocation and any implementation plan. This general permit does not authorize a direct discharge that is inconsistent with the waste load allocation ("WLA") of any EPA approved TMDL. If a TMDL is approved or modified by EPA subsequent to the effective date of this General Permit, the Department shall notify the permittee and may require any of the following.

1. Require the permittee to review its plan for consistency with the TMDL, and propose any necessary modification to the plan to the Department within six months of the receipt of notification concerning the TMDL.
2. Issue a watershed-specific general permit for the area draining to the impaired waterbody. The watershed-specific MS4 general permit may reference parts of this General Permit.
3. Require an individual permit.

PART V. Standard Conditions

- A. Removed substances.** Solids, sludges, filter backwash or other pollutants removed or resulting from the treatment of wastewaters shall be disposed of in a manner approved by the Department.
- B. Other applicable conditions.** The conditions in Waste Discharge License Conditions, 06-096 CMR 523(2) (effective January 23, 2001) also apply to discharges pursuant to this General Permit and are incorporated herein as if fully set forth. These conditions address areas such as: duty to comply; need to reduce or halt activity not a defense; duty to mitigate; permit actions; property rights; duty to provide information; and inspection and entry.
- C. Monitoring requirement.** The Department may require monitoring of an individual discharge as may be reasonably necessary in order to characterize the nature, volume or other attributes of that discharge or its sources.

⁹The collection of expenditure data by the Department is solely for the purpose of determining generic program costs not as a measure of the permittee's program compliance or effectiveness. The Department recognizes that expenditure data tracking and reporting methodology may vary from one reporting entity to another, as well as over time, and will assess any data for its validity, relevance and utility as it pertains to the purpose stated above.

- D. Other information.** When the permittee becomes aware that he or she failed to submit any relevant facts or submitted incorrect information in the Notice of Intent or in any other report to the Department, he or she shall promptly submit such facts or information.
- E. Endangered species.** Pursuant to State and Local Cooperation Law, 12 M.R.S.A. § 12806, A state agency or municipal government shall not permit, license, fund or carry out projects that will:
1. Significantly alter the habitat identified under Conservation of Endangered Species, 12 M.R.S.A. § 12804, subsection 2 of any species designated as threatened or endangered under this subchapter; or
 2. Violate protection guidelines set forth in 12 M.R.S.A. § 12804, subsection 3.
- F. Individual permit or alternative general permit.** When an individual permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative general permit, the applicability of this permit to the individual permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual permit is denied to an operator otherwise subject to this permit, or the operator is denied for coverage under an alternative general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Commissioner.

Appendix A

Regulated Small MS4 Municipalities

Auburn
Bangor
Berwick
Biddeford
Brewer
Cape Elizabeth
Cumberland
Eliot
Falmouth
Freeport
Gorham
Hampden
Kittery
Lewiston
Lisbon
Milford
Old Orchard Beach
Old Town
Orono
Portland
Sabattus
Saco
Scarborough
South Berwick
South Portland
Veazie
Westbrook
Windham
Yarmouth
York

Appendix B

Urban Impaired Streams

Logan Brook	Auburn
Penjawoc Stream including Meadow Brook	Bangor
Birch Stream (Ohio Street)	Bangor
Unnamed Brook (Pushaw Road)	Bangor
Arctic Brook (Valley Avenue)	Bangor
Shaw Brook	Bangor, Hampden
Frost Gully Brook	Freeport
Concord Gully	Freeport
Hart/Dill Brook	Lewiston
Jepson Brook	Lewiston
Capisic Brook	Portland
Fall Brook	Portland
Nasons Brook	Portland, Westbrook
Goosefare Brook	Saco, Old Orchard Beach
Trout Brook (including Kimball Brook)	South Portland, Cape Elizabeth
Barberry Creek	South Portland
Long Creek	South Portland, Portland, Westbrook, Scarborough
Phillips Brook	Scarborough
Red Brook	Scarborough, South Portland
Thacher Brook*	Biddeford

This General Permit may be reopened to include or delete specific waterbodies or segments based upon new information. Reopening the General Permit for this purpose is subject to the requirements in 38 MRSA 414-A (5), including notice to interested parties of record and opportunity for hearing. Actions may be appealed as provided in 38 MRSA 341-D and 346.

* DEP data lists Thacher Brook as impaired. This waterbody is scheduled for inclusion in the next revision of Chapter 502, Appendix B of the Department of Environmental Protection Rules. For the purpose of this General Permit, permittees shall consider Thacher Brook as an Urban Impaired Stream.