



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

MELANIE LOYZIM
COMMISSIONER

March 16, 2022

Mr. Thomas Hall
Town Manager
P.O. Box 360
Scarborough, Maine 04070
e-mail: thall@scarboroughmaine.org

**RE: Municipal Separate Storm Sewer System (MS4) General Permit #MER041000
Proposed Draft - MER041028**

Dear Mr. Hall:

Enclosed is a **proposed draft** Department Order granting coverage for the Town of Scarborough 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. The Department proposes to issue this Department Order as a final document after opportunity for your review and comment. By transmittal of this letter, you are provided with an opportunity to comment on the proposed draft document. If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

Beginning today, Wednesday, March 16, 2022, the Department is making the draft Department Order available for a 30-day public comment period. All comments on the proposed draft Department Order must be received in the Department of Environmental Protection office on or before the close of business on **Monday, April 18, 2022**. Failure to submit comments in a timely fashion will result in the final permit document being issued as drafted.

Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333-0017
gregg.wood@maine.gov

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

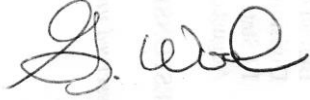
BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Wood". The signature is fluid and cursive, with the first name "G." and the last name "Wood" clearly distinguishable.

Gregg Wood
Division of Water Quality Management
Bureau of Water Quality

Enc.

cc: Alison Moody, DEP/SMRO
Damien Houlihan, USEPA
Newton Tedder, USEPA

Lori Mitchell, DEP/CMRO
Nathan Chien, USEPA

Holliday Keen, DEP/CMRO
Richard Carvalho, USEPA



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

**DEPARTMENT ORDER
IN THE MATTER OF**

TOWN OF SCARBOROUGH)	MUNICIPAL SEPARATE STORM
SCARBOROUGH, CUMBERLAND COUNTY, MAINE)	SEWER SYSTEM
MER041028)	MER041000
)	GENERAL PERMIT COVERAGE
March 16, 2022 Proposed Draft	APPROVAL)	RENEWAL

The Department of Environmental Protection (Department/DEP) has considered the Notice of Intent submitted by the TOWN OF SCARBOROUGH (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 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.

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.

Impaired Waters

The permittee's regulated MS4 has discharges to Red Brook and Phillips Brook, which are classified as Urban Impaired Streams in Maine DEP Rule Chapter 502 and are listed in the 2012 Maine Statewide Impervious Cover Total Maximum Daily Load (TMDL).

To meet the standards of the MS4 GP for impaired waters, the permittee must implement the following terms and conditions:

- 1) **Beginning calendar year 2022**, the permittee must implement the following chloride reduction practices for the Red Brook and Frost Phillips Brook watersheds.
 - a. At least one representative from the Town 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 Town must provide winter maintenance education and outreach to the public using two tools from the Town's Stormwater Management Plan.
 - The first year after legislation passes, the Town must provide awareness of its passage in the form of a presentation to the Town Council.
 - Beginning the second and subsequent years after passage, the Town 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 Town's Stormwater Management Plan.
- 2) **Beginning July 1, 2022**, the permittee, solely or in combination with others, must provide one digital and one print targeted education outreach each year to residents living adjacent to Red Brook and Phillips Brook about ways to create, improve, and maintain their riparian zone to Red Brook and Phillips Brook. The goal of the enhanced public education is to encourage the residents to improve their riparian zone by creating or improving and maintaining the riparian buffer with native species to minimize erosion, following proper yard waste practices.
- 3) **On or before March 1, 2023**, the permittee, solely or in combination with other municipalities, must submit to the Department for review and approval, a water quality monitoring plan for Red Brook that identifies monitoring site locations and parameters. The plan must include at least one site in Scarborough and one site in South Portland to assist in characterizing current conditions in each municipality's portion of the watershed. It will also identify the seasons and time period over which the sampling plan will be implemented (e.g., water quality data collection during late winter/early spring snow melt conditions and mid-late summer base flow conditions).
- 4) **On or before ninety (90) days following the approval of the ambient water quality monitoring plan by the Department**, the permittee, solely or in combination with others must commence ambient water quality monitoring of Red Brook in accordance with the approved plan.
- 5) **On or before July 1, 2024**, the permittee must conduct public outreach associated with the proposed enhanced stream corridor protections for Phillips Brook.

- 6) **On or before July 1, 2026**, the amended Phillips Brook Stream Protection Ordinance (including a minimum of 75-foot stream buffer along the Phillips Brook corridor as part of a Stream Protection Overlay) must be presented to the Town Council for adoption.
- 7) **On or before November 1, 2026**, the permittee, solely or in combination with others must submit to the Department for review, a report that includes a compilation of data collected, interpretation of the data (trends, anomalies etc) conclusions and recommendations on future ambient water quality efforts.
- 8) **On or before July 1, 2027** – the permittee must submit an updated Red Brook Watershed Management Plan to Maine DEP for review with a scope of work and schedule for the installation of at least one (1) structural or non-structural BMP in the watershed.

THEREFORE, the Department GRANTS the TOWN OF SCARBOROUGH, 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.

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
 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 _____.

Date filed with Board of Environmental Protection: _____

This Order prepared by GREGG WOOD, BUREAU OF WATER QUALITY