

July 8, 2020  
Gregg Wood  
Maine Department of Environmental Protection  
17 State House Station  
Augusta, ME 04333

Re: FOCB Comments on Final Draft General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (MS4s)

Dear Gregg,

Friends of Casco Bay submits the below comments regarding the Final Draft General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems (final draft). We strongly support the final draft. We therefore confine our comments to resolving minor issues. We separately enclose a copy of the final draft with suggested corrections to typographical errors.

### **Comments Specific to Final Draft**

We suggest some minor modifications to add clarity and strengthen the effect of the MS4 permit.

Second-Step Permit: The fact that the second step will now be a Department Order (rather than a permit modification) simplifies the process and will produce a final cohesive permit for each regulated community. We support this change. Here is an editorial suggestion to Part I.B: Strike “permit modification” from the following—“This GP in conjunction with the permittee specific DEP Order, **permit modification** authorizes the direct ....” Ensure the term permit modification is stricken from throughout this paragraph and the permit generally.

The permit should make clear that DEP will provide oversight of both the SWMP and SWPPP. Individual permittees will not “enforce” either document.

Part II. Definitions: Delete from definition KK Stormwater Management Plan the words “and enforced.” The first sentence now reads: Means a written plan developed, implemented, **and enforced** by a permittee. It should read: Means a written plan developed and implemented by a permittee.

Part III. Procedure: This section fails to set forth any procedure for review of the SWPPP. The permit should contain a process for when and how the SWPPP will be available for public comment. For example, the SWPPP could be submitted with the NOI and subjected to public comment in the same manner as the SWMP. This would require modifying section 4: Public Comments to reference the

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SWPPP and section 8: Permittee Specific DEP Order. Section 8 should include the following underlined language: “Following the public comment period on the NOI, SWMP and SWPPP, the Department will issue a permittee specific DEP Order ....” Both the SWMP and SWPPP must be modified commensurate with the permittee-specific DEP Order. The modified SWPPP could be subjected to public process in the same manner as the modified SWMP.

Part IV. Requirements: During revisions of this document, text has been moved. There are references in this section that should be amended to reflect such changes. For example, Part IV.A(1)(b) states that: “The SWMP must also address the requirements of **Part IV(D)** for discharges to waters with EPA-approved TMDLs and to waters that are that listed as Urban Impaired Streams.” The correct reference is now to **Part IV(E)**.

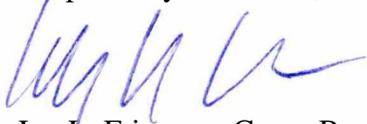
Part IV.C (6) MCM 6 now contains considerable detail that we support. We reiterate our request that some public review process be allowed for the SWPPP, which must be drafted prior to the NOI and modified in accordance with the Department Order. In this respect, it appears to follow the procedural track of the SWMP and could be treated similarly in terms of offering opportunities for public comment and engagement.

Part IV.E (1) must include language identical to the language in paragraph (3) that: “The permittee specific DEP Order will set forth those measures the permittee must take, and may include, in whole or in part, the measures proposed by the permittee.” As written, paragraph (1) contains no reference to including measures in the DEP Order.

Part IV.E (3) indicates that the structural and nonstructural BMPS may be selected from “MCMs 1-6.” The permit must make absolutely clear that the selected BMPs must be in addition to measures permittees take to comply with MCMs 1-6. For example, if a permittee wishes to propose street sweeping as a measure to reduce pollutant loads to an urban impaired stream, the street sweeping must be in addition to the street sweeping the permittee must do to comply with the MCMs.

Conclusion: Thank you for this final opportunity to help craft an MS4 permit that complies with the Remand Rule and meaningfully improves and protects water quality. Please do not hesitate to contact me if you have questions about or require clarification of our comments.

Respectfully submitted,



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