



TOWN OF KITTERY

Department of Public Works

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To: Planning Board Members

From: Jessa Kellogg, Public Works Inspector

Subject: Update on MS4 General Permit for Stormwater Discharges

Meeting Date: May 23, 2024

Executive Summary

The Town of Kittery is subject to the 2022-2027 General Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4 General Permit), a federally mandated program under the Clean Water Act administered by the Maine Department of Environmental Protection (Maine DEP). One of the permit requirements specifies that certain municipal staff and elected officials be made aware of the MS4 General Permit and its requirements on an annual basis.

Planning Board members' review of this Report fulfills the permit requirement for Permit Year 2, which ends 6/30/2024.

This report provides updates on the following elements of the General Permit implementation which are relevant to the Planning Board:

1. Public Education and Participation (litter and pet waste cleanups), and
2. A permit requirement to implement Low Impact Development Standards.

Background

In 2003 the Town of Kittery became subject to the MS4 General Permit along with 27 other Maine municipalities. The 2022-2027 General Permit requires that each community implement six control measures to protect stormwater from pollution:

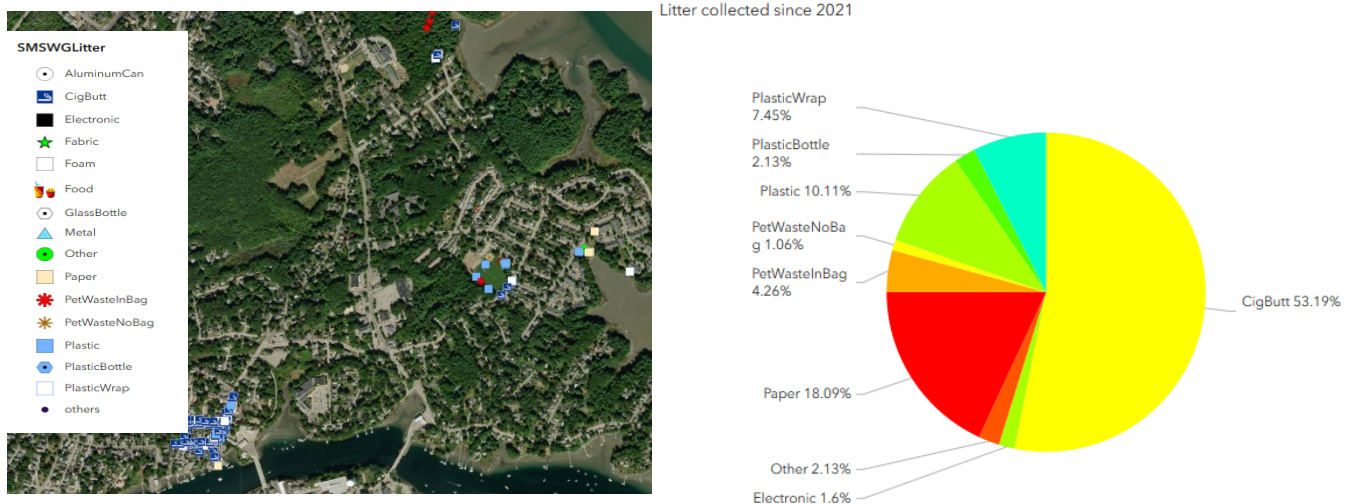
1. Public Education and Outreach
2. Public Participation
3. Illicit Discharge Detection and Elimination

4. Construction Runoff Control
5. Post Construction Runoff Control
6. Pollution Prevention and Good Housekeeping.

The Town's Stormwater Management Plan, available on the Public Works Stormwater web page ([Stormwater/MS4 Program | Kittery ME](#)) provides more detail on all elements of Permit Implementation and how Kittery is meeting these Clean Water Act requirements.

Public Education and Outreach

The Town is required to conduct public education about how stormwater can become polluted and what steps residents can take to prevent stormwater pollution. The Town partners with York, Eliot, South Berwick and Berwick to fulfill most of the public education requirements as the Southern Maine Stormwater Working Group (SMSWG). For the 2022-2027 General Permit, the Town and its partners identified a focus on pet waste and cigarette butt litter based on an initial inventory of litter in all five communities. Cigarette butt litter was by far the most predominant type of litter observed, though pet waste was also significant in Kittery. The graphic below shows the areas of town initially surveyed and the breakdown of litter observed (and collected).



The Town recently applied for a Keep America Beautiful Grant, which would provide stationary and pocket cigarette butt disposal containers. Keep America Beautiful studies show that most cigarette butt littering occurs in transition zones (people entering buildings or getting into their cars). If we receive the grant, we will work with local businesses to place and maintain the stationary containers outside their

businesses and provide pocket ashtrays to customers. These would also be available at Town Hall and the Resource Recovery Facility.

The Town and its partners post on SMSWG and Facebook social media accounts to encourage people to properly dispose of these types of pollutants and to participate in local cleanups as shown in the below graphics here.



Update on Requirement to Implement Low Impact Development Standards

The 2022-2027 MS4 General Permit requires that the Town incorporate Low Impact Development (LID) Standards into its ordinances. Additionally, the Kittery Climate Adaptation Committee has identified LID as one of its priority action strategies to address Town vulnerabilities.

The Town partnered with SMSWG and received grant funding to develop a model ordinance for LID Standards. The Town then submitted a letter to the Maine DEP in September 2022 identifying how they would implement the standards of the model. The Maine DEP approved the Town's approach in December 2022, but Friends of Casco Bay (FOCB) appealed the approval, saying the standards were insufficient. The Maine Board of Environmental Protection ruled on the FOCB appeal in October 2023 and has required that the Maine DEP address the deficiencies. The Maine DEP has been working to address the Board requirements.

On April 18, 2024, the USEPA provided a letter to the Maine MS4 permittees which laid out a schedule to implement the LID standards. The USEPA letter provided the following timeline:

Late May 2023: The USEPA and Maine DEP will meet and develop a full set of LID standards that Maine MS4 permittees must implement.

After the EPA/DEP meeting, the Maine DEP will provide a 20-day comment period for interested parties such as the town.

~Late July/August 2024: Once comments are addressed, the Maine DEP will release a modification to the MS4 General Permit for formal 30-day comment.

~November 2024: Once the MS4 General Permit has been finalized, the town may begin the process of incorporating the LID standards.

November 5, 2025: SMSWG has proposed this as the date by which the LID ordinances should be implemented, assuming the MS4 General Permit is finalized in November 2024. This should allow most MS4 permittees time to complete the process of ordinance adoption.

This delay in implementing the MS4 LID standards is unfortunate but does not prevent the Town from moving forward with these changes in the late summer or early Fall 2024. Town staff will follow the MS4 LID process closely and anticipate commenting on the proposed changes developed by the EPA/DEP. The Planning Board should expect to receive more details on the MS4 LID process in the Fall 2024.

Any questions regarding MS4 Permit requirements and/or implementation should be directed to jkellogg@kitteryme.org.