

[2012 GG FINAL doc including Appendices 10-04-12.doc](#)
Attachment A

Stormwater Compensation Fund Program Guidance
(October, 2012)

Maine Department of Environmental Protection
Bureau of Land and Water Quality
Division of Watershed Management
#17 State House Station
Augusta, ME 04333

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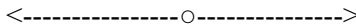
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Introduction

This written guide and its accompanying appendices show the standard format for reporting project information and provides direction regarding administrative issues and expectations associated with Stormwater Compensation Fee (SCF) projects.

The Maine Stormwater Management Law (38 M.R.S.A. Section 420-D.11) was enacted to reduce the impacts of phosphorus (P) pollution in certain Maine lake watersheds. The law authorizes DEP to accept “compensation fees” (comp fees) from developers in certain impaired watersheds in lieu of the developers conducting full on-site P reduction efforts, at the rate of \$25,000 per pound of mitigated P export, if the developer’s project design provides for at least a 60% reduction of onsite phosphorus export from the site. Projects must be located in the direct drainage of the affected lake watershed. Until 2006 DEP collected comp fees directly from developers and used the funds to pay the costs of phosphorus mitigation projects undertaken by grantees selected via an annual Request For Proposals (RFP) process. A new approach is now being exercised with an objective to more efficiently apply the funds, generate greater public interest and lower state costs associated with SCF Program administration. In 2008 the DEP began working with outside entities referred to as Stormwater Administrators (SAs). A SCF Agreement authorizes transfer of comp fees from the DEP to an SA, allowing it to collect new comp fees directly from developers. SAs are also authorized by DEP to administer their own stormwater compensation fee program, for undertaking SCF projects in the lake watersheds where the fees were collected and which are within their jurisdiction as described in their respective SCF Agreements.

1. SCF Agreement (“contract”).....a contract agreement or grant agreement entered into between the DEP and an outside entity (Stormwater Administrator...’SA’) for the purpose of allowing the entity to develop and administer SCF projects according to the terms, conditions and schedules contained in the Agreement. SCF Agreements typically involve the development and implementation of distinct, multiple *SCF Projects*.

There are currently seven Stormwater Administrators: CCSWCD, LEA, YCSWCD, AVSWCD, CWD, KCSWCD and PenobSWCD. The SAs are obliged to submit annual reports to the DEP each year by January 31. These reports summarize the work performed, the stormwater compensation funds expended for the prior year and the administrative costs for the year.

I. DEFINITIONS

The following definitions are intended to clarify terms used when planning and operating projects under stormwater compensation agreements and to provide consistency regarding actions and functions relating to SCF projects.

2. SCF Projectwithin a SCF Agreement, the collective planning functions, tasks, costs and results associated with SCF work performed under a distinct project work plan (see ‘Work Plan Development’ Section III (D.) below). A single SCF Project may have multiple *work sites*.

Example of SCF Project name: “Smith Road Project”

3. SCF Work Site.... Within a SCF Project, a contiguous area visibly distinguishable from adjacent surrounding areas by evidence of soil erosion, soil disturbance, physical features, boundary indicators, signage or some combination of these characteristics that help establish the site as distinct. A work site may have multiple BMPs located within it.

Work Site Example #1: A distinct section of road with known start and end points where specific BMPs are installed or practiced. *Example #2:* A landowner’s property with visible boundaries.

4. BMP..... located within a SCF work site, a BMP (Best Management Practice) is a planning and/or construction activity designed to repair, correct or minimize a nonpoint source pollution problem. Construction BMPs involving ground repairs are the most common type of BMP and must be quantifiable regarding their purpose, size or footprint, design, cost, repair time, useful life and expected benefits.

Examples of Construction BMPs: Shore buffers, level lip spreaders, silt fence, etc.

Examples of Planning BMPs: Street sweeper program, SLZ permit inspection program, etc.

The relationship of the above four terms can be thought of as each successive term being a subset of the former:

SCF Agreement.....

SCF Project.....

SCF Work Site.....

BMP.....

5. Direct lake watershed..... The land area that drains, via overland flow, natural or man-made drainage systems, or waterbodies or wetlands, to a given waterbody or wetland without first passing through an upstream waterbody classified as GPA. The land area around a lake that funnels runoff water directly to the lake.

6. Administrative costs (admin costs).....For purposes of SCF Program administration, administrative costs (admin costs) mean the costs of administering a SCF Program and developing projects, including but not limited to such activities as *responding to questions, requests for information about the program, receiving SCF funds, fiscal management of accounts, annual reports to DEP, landowner contacts, and site visits to scout for potential projects and worksites*. Examples of items that are not considered admin costs are design work, construction contracts, construction layout, construction oversight and post-construction inspections. See Section IV, ‘Administrative Cost Reimbursement’, for information about how to calculate admin costs.

II. ANNUAL REPORTING

SCF Agreements require Stormwater Administrators (SAs) to provide an Annual Report to the DEP by *January 31st of each year*, covering the preceding year’s work efforts and financial status. Basic annual report information as required by SCF Agreements includes:

- a. Compensation fees received (The amount of fees received from developers, the names of the lake watersheds where the developments are located, and the names of the specific development(s) for which the fees were received);
- b. Compensation fees expended (The watersheds where the compensation projects are located. Where funds are expended, provide: The name of each compensation project; the estimated total cost and expended-to-date cost of each project; a description of each project's scope of work and accomplishments-to-date; and each project's anticipated (or actual, if done) completion date;
- c. Compensation fee balances (For each dedicated watershed account, the compensation fee funds available/unspent by year's end); and
- d. BMPs installed (For each SCF work site, before and after photos showing pre and post site conditions with watershed name, compensation project name, and brief descriptions of BMP type and cost.)

The Annual Report

Reporting requirements for SCF are met each year by completing and submitting an Annual Report that summarizes all work and project expenditures occurring for each watershed under the SCF Agreement. The Annual Report consists of four parts submitted together as one document:

- 1-) A compilation of **Watershed Forms** (see Appendix 1). Provide one form for each Watershed listed in the SCF Agreement where funds existed for the year being reported on. Provide a simple list of any watersheds where no funds existed.
- 2-) A **Site Map** for each watershed showing the locations of all work sites for the year (see Appendix 2 for an example); and
- 3-) Before and after **photo documentation** of BMP locations, clearly showing the pre and post-construction conditions (*black and white paper photocopies are not acceptable*). Note that a brief explanation of repairs/work accomplished for the year (as shown in the photos) should be included on the Watershed Forms under the 'Summary of Work Accomplishments for the Year' section.
- 4-) A summary of **admin costs** for the year, in table format (see Section IV). As with the Watershed Form, one admin cost table should be provided for each watershed. The total admin costs for the watershed must be reflected on the corresponding Watershed Form for that watershed.

The four pieces of information noted above, when used in tandem with the project work plan (see Appendix 3 and 'Work Plan Development' Section III (D.) below), are adequate to reasonably describe the watershed work and the associated costs for the year reported on.

Example of Annual Report: For a SCF Agreement where five SCF lake watersheds had funds, the Annual Report would require five Watershed Forms (one per watershed), five 'Admin Costs' tables (one per watershed), five Site Maps (one per watershed) and clear before/after photos for the BMPs indicated on the Site Maps.

Site Maps that accompany Watershed Forms should be labeled (see Appendix 2) to show the following information and *must be clear enough to allow work sites to be easily located on the ground*.

- the project name (or tracking number);
- the work site #; and

- in parentheses following the work site #, the code numbers for the types of BMPs installed (see Watershed Form for standard BMP codes).

Example Site Map label: A map symbol (dot, “X”, etc.) with an accompanying label of “Smith Road, WS #1 (3,6)” indicates Work Site #1 of the Smith Road Project where buffer (BMP code 3) and recreation trail BMPs (BMP code 6) were installed.

Note: the actual number of BMPs installed for any one type of BMP isn’t required on the Site Map or on the Watershed Form. That information should, however, be reflected in the SAs project file along with other basic information that helps quantify the BMPs used.

If needed to complete the ‘Summary of Work’ portion of the Watershed Form, the length of the form can be expanded onto a second page.

Records explaining details not required in the Annual Report (design plans, hours worked, pay rates, receipts, work orders, etc.) need not be submitted to DEP but should remain available for review at the SAs normal place of business for the duration of the SCF Agreement, upon advance request.

III. ADMINISTRATION & PROJECT DEVELOPMENT

A. Work Objectives

The SCF Agreement – Attachment B provides “Guidance on Preferred Projects” including examples of preferred and ineligible types of work. For convenience refer to Appendix 5 for a copy of the preferred project guidance. The main objective for SCF is to eliminate/reduce phosphorus impacts top water resources. The primary means for accomplishing this is by effecting **beneficial changes to existing land use practices; treating contaminated runoff before it reaches lakes; and/or conducting long-term prevention programs for reducing, preventing or controlling contaminated runoff.**

The SCF Agreement states that SAs will develop and implement compensation fund projects for watersheds where SCF funds have been received, and that unless the funds accumulated within a watershed account are insufficient to allow a meaningful project to be completed those funds must be spent on approved projects within three years of receipt of the fees. Annual performance expectations for can therefore logically be associated with the fee amounts contained in the respective watershed accounts.

Annual Performance Expectations

In keeping with the need to apply SCF funds according to the SCF Agreements, the following policy is established as a means of accommodating smaller watershed accounts until their funds adequately accrue; promoting application of available SCF funds at a reasonable rate; and to more efficiently utilize SCF funds contained in larger watershed accounts.

Typically...

Watershed accounts containing less than \$10,000 are considered ‘small’ accounts.

Watershed accounts containing from \$10,000 to \$20,000 are considered ‘medium’ accounts.

Watershed accounts containing more than \$20,000 are considered ‘large’ accounts.

Where an SA's accounts are all small at the beginning of a given year, conducting projects for that year is optional. Such accounts may be left to accrue until the \$10,000 level is reached. However, SAs are strongly encouraged to be opportunistic and where practical either leverage small accounts with other available funding sources (319 grants, town funding, etc.) to conduct projects in those watersheds, or, to work with towns to help them implement their existing long-term programs and plans that serve to reduce, prevent or control phosphorus pollutants at the watershed level. Examples of the latter may include shorefront inspection programs in the shoreland zone, compliance or enforcement work associated with permits in the shoreland zone, implementation of sections of comprehensive plans or watershed management plans calling for phosphorus control activities, etc. The implementation plans must *already exist* (i.e., the work must not create or design *new* plans) and project results must be documented on the work plan as a project outcome. For more information about possible projects see Appendix 5.

Where an SA has at least one medium watershed account but the others are all small accounts at the beginning of a given year, it is expected that the SA will conduct at least one project during that year and substantially spend down the funds in the medium account.

Where an SA has at least one medium watershed account AND at least one large watershed account at the beginning of a given year, it is expected that the SA will conduct at least two projects during that year. One of them should be in a large account watershed. For both projects the SA should seek to substantially spend down the funds in the respective accounts.

Regardless of the amount of funds in them, accounts that have accrued for more than 5 consecutive years without any significant project activity (admin costs by themselves are not considered a significant project activity) are subject to review by the DEP to determine a suitable means of applying the funds.

SAs are asked to apply watershed account funds as expeditiously as possible and to make every attempt to start, conduct and finish projects according to the schedules contained in the work plans. Regularized project activity is important for demonstrating the viability of the SCF Agreement approach. Issues relating to the December 31, 2017 SCF Agreement expiration date will be handled as warranted, on a case-by-case basis. DEP will consider renewing SCF Agreements for another term if there is mutual support to do so by the DEP and SA, and if annual SCF expenditures and project activity have been satisfactory.

B. Role of the DEP

Locating and assessing potential work sites is a necessary step in developing SCF projects and may entail significant chunks of travel and reconnaissance time walking potential work sites, documenting physical conditions, brainstorming suitable repair approaches for addressing problems, checking on state and local requirements that may affect planning or fieldwork (see 'Permits' below), and putting together a work plan and budget that ties it all together. DEP staff are available to offer guidance during this time and throughout a project once it is initiated. However, since a primary objective of SCF Agreements with outside entities is to reduce state administrative oversight (thus minimizing the direct need for state time and resources), SAs should avoid depending too heavily on DEP staff for planning and project administration needs.

C. Permits

As potential SCF work sites are found it is necessary for SAs to check whether past permits or legal orders exist for the sites in question that already require the type of work planned. If

findings indicate that these conditions exist then the site should not be considered for SCF project work. The exception is if the SCF project will not accomplish work that was already the responsibility of the landowner or permit holder. I.e., new work that would accomplish *additional* nonpoint source protection for the site that is *over and above* the protection required by the existing permit (assuming the permit conditions were complied with) may be considered for SCF funding at the discretion of the SA and the DEP.

Where SAs must seek a NRPA permit from the state prior to undertaking SCF work there is typically no waiver of the permit fee by the state. Permit costs may be paid with SCF funds only if the costs *directly* relate to the SCF work.

D. Work Plan Development

When SAs have completed field recon and created a list of potential SCF work sites, BMP repair strategies and costs this information should be organized into a draft work plan. Work plan proposals must have the following subject headings:

- *Applicant information*
- *Project Tracking/Scheduling* (including watershed name, project name, towns, estimated project cost, and estimated project start and end dates)
- *Project Purpose Statement* (relate to ‘Guidance on Preferred Projects’)
- *Project Abstract* (brief summary of what will be done); and
- *Work to be Performed* (described planned project work by task description, work site location, BMPs to be undertaken, planned outputs and estimated cost per task)

It is recommended that SAs use the project work format shown in Appendix 3. SAs should review their ideas with the DEP for basic acceptability. Using that feedback, the SA develops a written project work plan and provides it to their assigned DEP AA for review and approval. Maintenance provisions must be included. If deficiencies are found, the AA will return the plan to the SA for corrections. Once DEP and the SA agree to the final plan the AA will sign and date the plan, complete the ‘Received and Ok’d’ section noting it as the final plan and return the approved original to the SA after making copies for the local DEP office file and the DEP Augusta file. The project may begin on or after the ‘final plan, ok’d’ date shown on the work plan.

E. Work Plan Implementation

Upon DEP approval of the project the SA should complete the project according to the schedule contained in the work plan, preferably within the same year.

F. Receipts for SCF Fees

When receiving SCF fees from developers SAs are asked to support use of a standard receipt form and procedure designed by DEP to keep involved parties informed of such transactions (See receipt form, Appendix 4). Involved parties for this purpose include the applicant (developer), the SA, and the DEP staffer who is drafting the permit for the development for which the fee is being submitted (DEP Permit Manager...DPM). The procedure for using the receipt form is as follows:

- (a.) An electronic copy of the receipt form will be provided to DEP Project Managers along with a copy of this written procedure;

(b.) Upon receiving notice from a developer that the developer wishes to use the compensation fee option for a project in an eligible lake watershed, the DPM will complete PART I of the receipt form and send the form to the Applicant, asking that they complete PART II of the form and then send it along (with a check for the appropriate fee amount) to the SA;

(c.) Upon receiving the partially-completed receipt form from the Applicant the SA should complete PART III of the form, retain the original for the file and within 7 days of initial receipt provide a copy of the completed form to both the Applicant and the DPM (the latter for the DEP permit file). The receipt process is considered complete when the DPM receives their copy of the completed receipt. This effort will document for all parties that the required fee has been paid and provide the DEP Permit Manager with a ‘trigger’ for finalizing the permit process.

See below for key information about refund policies for fees received from developers.

G. Refunds of SCF Fees

Occasionally it may happen that developers who submit a SCF fee for a planned development in an eligible watershed change their mind about pursuing the development and request a refund of the fee. Refund requests by developers must be sent to the SA having responsibility for that watershed, must be in writing, and must occur *within two (2) months* of the date the fee was received by the SA. For a refund request where the DEP has already issued the development permit the SA must first contact the DEP to address any DEP requirements regarding permit rescission, *before* the refund is made to the developer. If this occurs, the *entire* fee may be refunded and the circumstances simply noted by the SA in the narrative portion of the Watershed Form provided by the SA during annual reporting for that watershed. However, if requests for refunds occur *more than* 2 months after the date the compensation fee is received by the SA, the fee is considered *non-refundable* and the entire fee *may be retained* by the SA, for SCF work in the watershed where the fee was collected. Even with refunds requested by developers within 2 months, SAs may retain \$500 or 5% (whichever is greater) to cover associated admin costs.

When completing the Watershed Form for annual reporting the SA should include an explanation of any refund circumstances AND reflect any necessary monetary adjustments to the watershed account balances (beginning and ending balances, available funds, and admin costs). See Section IV below for more information regarding administrative costs.

IV. ADMINISTRATIVE COST REIMBURSEMENT

In managing SCF programs SAs will incur administrative costs (see ‘Definitions’ section for definition of this term). As stated in the SCF Agreement, a SA may reimburse itself up to 15% of the funds available for a given watershed, for administrative costs it incurs. The 15% is based on the amount of SCF fees that were *initially* received into that watershed account. In this sense there is an initial 15% ‘admin cap’ established for each watershed account, from its outset. Beyond this initial 15% cap, an SA may also reimburse itself up to 15% of any *new* SCF fees received for the watershed during that particular year. I.e., the initial 15% admin cap + 15% of any new fees received for the year = the admin cap ceiling for that watershed for that year. See below for a narrative example of this approach and a tabular display of how the procedure works.

- In late 2008 a SCF watershed account is created for Cary Lake and the beginning account balance is \$50,000. The initial admin cap for this watershed would be \$50,000 X 15% = \$7,500. No further fees are collected in 2008 and no project work is done, but at year’s end the SA reimburses itself \$1,000 for admin expenses incurred for the watershed.

Entering 2009 this would leave an available account balance of $\$50,000 - \$1,000 = \$49,000$. The admin cap for the watershed going into 2009 is $\$7,500 - \$1,000 = \$6,500$.

- In February 2009 the SA collects \$10,000 in fees from *Acme Condos*, bringing the watershed balance to $\$10,000 + \$49,000 = \$59,000$. The admin cap portion for 2009 becomes 15% of the new \$10,000 collected (\$1,500) plus the admin carryover from 2008 (\$6,500) = \$8,000. In July 2009 the SA collects \$40,000 in new fees from *Smith Development*. The watershed balance becomes $\$59,000 + \$40,000 = \$99,000$. The admin balance becomes 15% of \$40,000 (\$6,000) + the \$8,000 previous admin balance = \$14,000. In October 2009 the SA received \$560 in fees from *Sanita Hotel*. The watershed balance becomes $\$99,000 + \$560 = \$99,560$. The admin balance becomes 15% of \$560 (\$84) + \$14,000 = \$14,084. If at the end of 2009 the SA reimbursed itself \$2,500 for admin expenses incurred in 2009 the admin balance (i.e., the carryover to 2010) would be $\$14,084 - \$2,500 = \$11,584$. And so on...

Following is a tabular presentation of admin tracking for the above example:

ADMINISTRATION COSTS LOG FOR _____, rounded to closest dollar
Watershed Name

YEAR	SCF Fees Received			Amount of Admin....		End-of-Year Admin Reim. (B)	Admin Avail. @ Yr's End (A-B)
	Date	Amount	From	For This Event... (fee X 15%)	Running Tally, All Yrs. (A)		
			(admin carryover from 2008...)		6,500		6,500
2009	2/10/09	10,000	<i>Acme Condos</i>	1,500	8,000	-2,500	11,584
	7/9/09	40,000	<i>Smith Development</i>	6,000	14,000		
	10/22/09	560	<i>Sanita Hotel</i>	84	14,084		
			(admin carryover from 2009...)		11,584		
2010			(no fees received)	0	11,584	-1,100	10,484
			(admin carryover from 2010...)		10,484		
2011	4/1/11	3,000	<i>Biggs Lodge</i>	450	10,934	-3,300	7,784
	8/7/11	1,000	<i>Daigle Subdivision</i>	150	11,084		
			(admin carryover from 2011...)		7,784		

Etc.

It is advisable for SAs to regularly monitor admin expenses to avoid exceeding the watershed's 15% admin cap as explained above, particularly in watersheds with multiple ongoing projects where admin costs are high and new incoming fees are low. To exceed the 15% reimbursement cap for any given watershed the SA would need to obtain DEP authorization *beforehand*, since doing so would require using the non-admin portion of the watershed account fees to fill the cost gap. The SA would need to present a written letter of explanation to the DEP AA to initiate the authorization process. The letter should describe the problem, explain in adequate detail how the shortfall occurred, state the SA's recommendation / request for handling the shortfall, and summarize/address any impacts the shifting of watershed funds to cover the shortfall will have on program or project activities in that watershed.

This approach for admin cost calculation/reimbursement requires SAs to maintain a log of individual watershed admin balances and expenses. The tabular format shown above can be used for tracking these admin costs. Regardless of the tracking format used, the information should be reasonably easy to follow **and should be provided to the DEP* as part of the SA's Annual Report for that year** (see Section II, 'The Annual Report').

* NOTE: Submittal of admin cost information to DEP as part of annual reporting isn't necessary if the SA doesn't reimburse itself from SCF watershed funds for the admin costs it incurs.

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Appendix 1, SCF WATERSHED FORM (one form required for each lake watershed having funds for the reporting year)

Stormwater Administrator (agency):

Watershed Name:

Contact Name and Phone:

For Calendar Year:

Date of Report:

(A) Beginning Balance for Year: \$

SCF Funds Received or Collected for Year

Source of Funds (DEP, developer, etc.)	Name of Development (if applicable)	Coinciding DEP Permit # (if applicable)	Amt. Rcvd.

(B) Funds Rcvd/Collected for the Year \$

(A) \$ **+** **(B) \$** **+** **Accrued Interest \$** **= (C) Account Funds Available for This Calendar Year \$**

Summary of Work and Expenditures for the Year (please round to closest dollar)

Project Name or Tracking # (Ex: Smith Road)	Summary of Work Accomplishments for Year <small>Note: A project may have multiple work sites. A work site may have multiple BMPs. Use one row per project to describe project accomplishments.</small>	Project Budget	Project Costs (non-admin funds spent)	BMPs Done This Year		Project Timetable			General Comments
				Work Site #	BMP types (use code key below)	Planned End Date	% Project Done to Date	Date Done	
(project #1...)	(One 'box' or row <i>per project</i>)	\$	\$						
(project #2...)		\$	\$						
Etc.		\$	\$						

Total project (non-admin) costs for the year

+ Total admin costs for the year (from watershed's admin costs table)

= D (Funds Spent for the year, in this watershed)

C (Funds Available) minus D (Funds Spent) = E (End-of Year Balance)

Note: Include **photos**, and a **Site Map** showing BMP locations by project name, work site # and BMP codes in parentheses.

Example: Smith Road Project, WS#4 (3, 6).

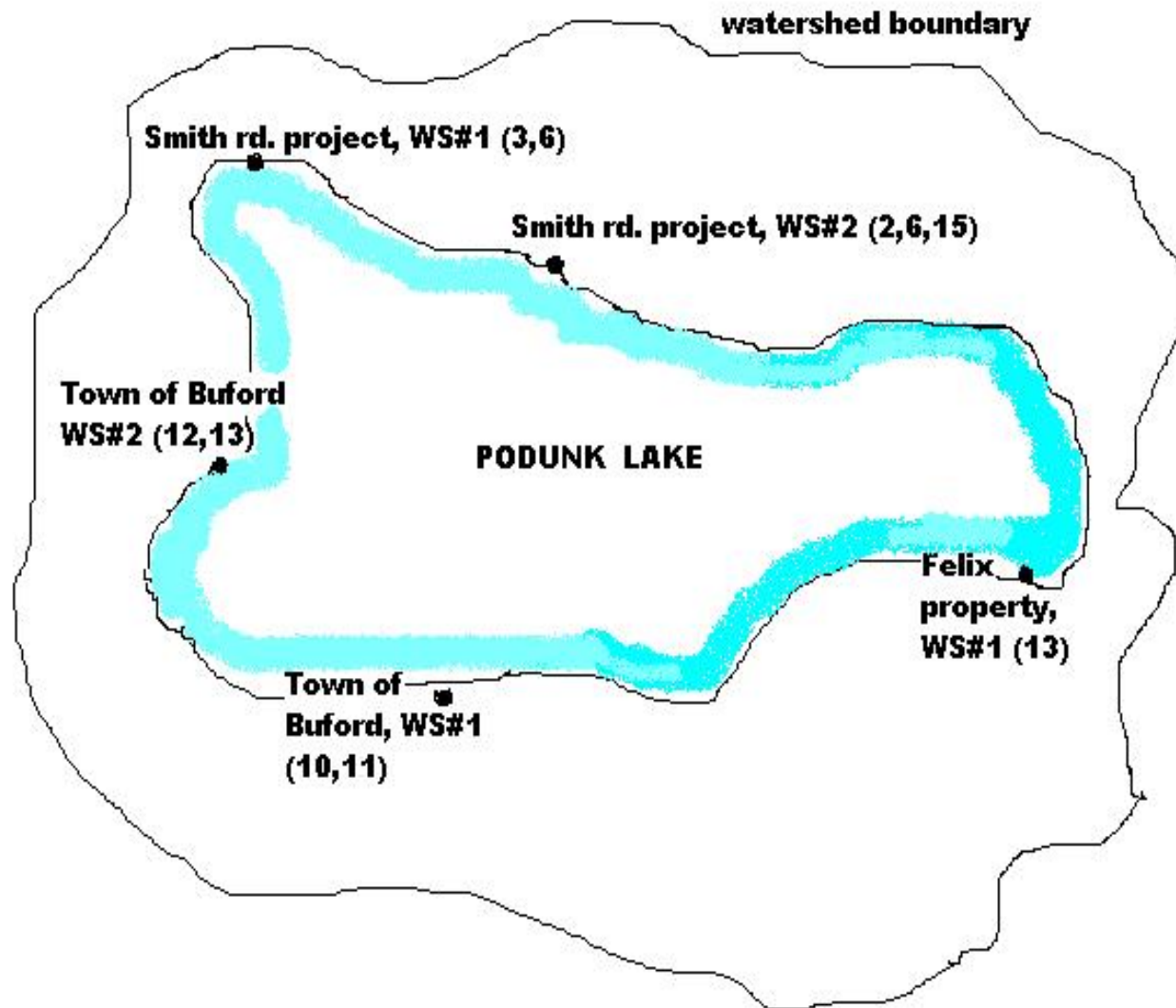
See DEP's SCF GENERAL GUIDANCE (GG) document for more information.

Code Key to BMP Types

1	Land Use Chg	2	Runoff Control	3	Buffer	4	Agric. Forestry	5	Rec Trail	6	Ramp	7	Landing	8	Park Pave.	9	Bioretten Underdrain	10	Street Sweeper	11	Tech Asst.	12	Inspect./ Compliance	13	Enforce.	14	Soil Stab.	15	Roads	16	Other
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Appendix 2

SITE MAP



SCF Project WORK PLAN FORMAT

As part of its SCF GENERAL GUIDANCE the DEP recommends use of the following work plan format for SCF projects.

APPLICANT INFORMATION						
Name of Stormwater Administrator (SA) agency proposing this SCF project: _____						
Mailing address of Stormwater Administrator agency: _____ _____						
SA contact person: _____ Phone: _____ Email: _____						
PROJECT TRACKING / SCHEDULING						
Name of Lake Watershed: _____						
Name of Project: _____						
Project Tracking # (optional): _____ Town(s) Where Work is Located: _____						
Estimated Start Date: ___/___/___ Estimated End Date: ___/___/___						
Estimated Costs: SCF \$: _____ + Other Funds \$: _____ = Total, All Funds \$: _____						
PROJECT PURPOSE STATEMENT						
PROJECT ABSTRACT						
WORK TO BE PERFORMED				Work plans to be accompanied by a sketch/photo showing work site main features and a Site Map showing ground locations.		
TASK #	<u>TASK DESCRIPTION</u>	Construction		Planned Outputs (photos, reports, etc.)	Estimated Cost (closest dollar)	
		Work Site #	**BMP code(s)		SCF \$	Total, All Funds
1						
2						
3						
Etc.	(expand to a second page if needed...)					
Estimated Costs, All Tasks (closest dollar)						
**BMP codes:						
1. Land use changes 2. Runoff controls 3. Buffers 4. Agriculture 5. Forestry 6. Recreational trails 7. Ramps 8. Landings 9. Parking/pavement 10. Bioretten / underdrain 11. Street sweeper 12. TA (tech assist) 13. Inspection/compliance 14. Enforcement 15. Soil stabil. 16. Roads 17. Other						
Date Submitted for Review: ___/___/___				FOR DEP USE		
By (signature of SA rep.) _____				Rcvd. by _____ on ___/___/___ Approved ___/___/___ Copy of approved plan sent to DEP Augusta ___/___/___		

RECEIPT FOR STORMWATER PHOSPHORUS COMPENSATION FEES

Performed pursuant to the Maine Stormwater Management Law 38 M.R.S.A. §420-D.11 and the Maine DEP Stormwater Compensation Fund Program

PART I. TO BE COMPLETED BY DEP PERMIT MANAGER (DPM) for DEP permit application #: _____

Lake name: _____ Title of Development/Project: _____ Town: _____

Applicant name: _____, Mailing address: _____

DEP Permit Mgr. (DPM): _____, Mailing address: _____

The SCF fee amount due for this development is \$ _____ and is payable to Stormwater Administrator (SA) _____ who has SCF jurisdiction for this lake watershed and is located at (address) _____, phone # _____.

DPM signature: _____ Date: __/__/__ **Date this form forwarded from DPM to Applicant: __/__/__**

PART II. TO BE COMPLETED BY APPLICANT

This receipt certifies that (name of Applicant's agent) _____ received this form from DEP on __/__/__ for the development/project named in PART I above and as authorized agent for (name of Applicant) _____ agrees to pay on behalf of Applicant the amount of \$ _____ via check # _____ (attached), to the Stormwater Administrator named in PART I above for unmitigated stormwater phosphorus export anticipated from the development named in PART I above. Applicant agrees that any refund of this fee is limited to Applicant submitting a written dated request to SA within 2 months of SA having initially received the fee. Fees in SA's possession for longer than 2 months after receipt by SA are nonrefundable. Refunds requested w/in 2 months of payment to SA are subject to an admin cost fee of \$500 or 5%, whichever is greater, are retainable by SA.

Signature of Applicant's authorized agent: _____ Date: __/__/__ **Date this form forwarded from Applicant to SA: __/__/__**

PART III. TO BE COMPLETED BY STORMWATER ADMINISTRATOR (SA)

This receipt certifies that I, _____, representative for (name of SA agency) _____ received a stormwater phosphorus compensation fee payment in the amount of \$ _____ from (Applicant name) _____ on __/__/__ as compensation for unmitigated stormwater phosphorus export anticipated from the development named in PART I above. These funds shall be used for phosphorus mitigation in the watershed of (lake name) _____ according to the term of SA's SCF Agreement with the DEP.

Signature of SA rep: _____ Date: __/__/__ **Date copies of this completed form sent from SA to DPM and Applicant __/__/__**

(Note: the original of this receipt to be retained by the SA and available for DEP review upon request)

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

BANGOR
106 HOGAN ROAD
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

Appendix 5

COMPENSATION PROJECTS GUIDANCE

(Lakes Stormwater Phosphorus Compensation Program)

Purpose

A compensation project needs to be designed to provide for long-term elimination or reduction of existing phosphorus (P) sources. This describes the types of activities that are acceptable for a compensation project and provides examples. Questions about this project guidance or what may qualify as an acceptable project activity should be directed to your DEP SCF Program contact.

Types of Activities

Listed in order of preference, these activities are acceptable for a compensation project:

- I. **Permanent Change in Land Use:** Projects that result in a “permanent” change in land use from a high phosphorus export land use (i.e. active agriculture, commercial, brownfield, harvesting road or landing, eroding skid trail, eroding ATV trail, eroding boat landing) to a low P export land use (i.e., forest, meadow). This is the best type of activity; the P reduction will be very long lasting.

- II. **Treatment of Stormwater Runoff:** Projects that, at least in part, provide treatment of stormwater runoff from a high phosphorus export land use (i.e. commercial or high use parking, roads, agriculture) with BMPs that attenuate much of the P in the stormwater (buffers, turnouts to buffers, bioretention cells and other underdrained soil filters, infiltration systems), with preference given to BMPs that require the least maintenance. This is the 2nd best type of activity; lasting P reduction will depend on maintenance of the BMPs.

- III. **Long-Term Programs:** Programs that actively and regularly reduce P export from high P export land use by reducing or preventing potential contamination of runoff water by phosphorus (Examples: a high efficiency street sweeping program in high density residential and commercial areas; manure storage and management using approved methods, livestock management using approved methods, compliance and/or enforcement work associated with permits in the SLZ, or other program efforts that can be demonstrated to have high likelihood of significantly reducing P export). This is the 3rd best type of activity; however lasting P reduction will depend on active management of a program.

Nature of Work	<u>EXAMPLES</u> of <u>ACCEPTABLE</u> COMPENSATION PROJECTS
Permanent Change in Land Use	<p>A.) Reclamation of old harvesting operations (harvest road, landing, skid trails, etc.) to re-establish natural drainage patterns, productive/stable soil, and forest vegetative cover.</p> <p>B.) Reclamation of a chronically-eroding area to a meadow or forest.</p> <p>C.) Conversion of an old gravel parking area to stable meadow, with deed restrictions to prevent future development unless highly-effective P mitigation BMPs are in the development design.</p> <p>D.) Conversion of high P export pasture or row crop field (i.e., steep slopes adjacent to an intermittent channel) to forest, meadow, or low-yield (minimally fertilized) hay land.</p>

Roads and Parking Areas	<p>A.) Paving of a gravel road when it will <i>permanently stop chronic and severe erosion of the road surface</i>.</p> <p>B.) On gravel roads, constructing road ditches with ditch turnouts. For ditch turnouts to be acceptable for funding the ditch line must be long and be conveying sediment to an intermittent stream leading to surface water. The ditch turnouts must direct the ditch runoff into a protected, naturally vegetated buffer.</p> <p>C.) Funds may be used to install or replace undersized or failed stream crossing culverts or cross-drainage culverts to prevent future washout of a road.</p> <p>D.) Installation of town catch basins for pretreatment (sediment trap), in combination with other BMPs that treat road runoff, with the town signing an agreement for annual basin cleanout.</p> <p>E.) Repaving of parking area with pervious pavement, with compensation funds paying for the incremental cost difference between standard sub-base and paving and pervious paving and its required sub-base.</p> <p>F.) Retrofit of an commercial parking lot with with bioretention cells that include a long-term maintenance agreement.</p> <p>G.) Installation of tree box filters on small parking areas.</p> <p>H.) Funds may be used to develop and administer 3 to 5 year Road Management Programs with road associations. <u>Eligible work</u>: provide technical assistance; provide guidance to road associations for developing/implementing Road Management Plans (RMPs) for private camp/gravel roads.</p>
Buffers	<p>Planting of forested/vegetative buffers downhill of an agricultural field or significant sediment source adjacent to a water resource or drainage way. Buffers must either be effective <i>when planted</i>, or installed with runoff control measures in place that are adequate to protect new plantings and the subject area from the harmful effects of runoff, until the plantings can function as an effective buffer on their own.</p>
Retrofits	<p>Retrofitting phosphorus mitigation BMPs into existing watershed developments not subject to the Stormwater or Site Law (either pre-1997, large developments, or small developments)</p>
Municipal	<p>A.) Purchase of a regenerative air street sweeper to provide frequent and effective cleaning of roads and parking areas in high-density residential and commercial subwatersheds, perhaps for multiple town/lake combinations. Must include a sweeper maintenance/replacement plan.</p> <p>B.) Municipal programs focused on NPS-related field inspections, technical assistance and compliance or enforcement efforts within the shoreland zone</p> <p>C.) Funds may be used to develop focused projects with towns, where the project combines planning and implementation work into a single year or multi-year effort (max. 3 yrs.), to reduce and prevent P sources. Projects in the SLZ are recommended but not required.</p>
Agriculture	<p>A.) Manure storage and management using approved methods</p> <p>B.) Livestock management using approved methods.</p> <p>C.) Fencing, to keep pasture animals out of tributary streams and drainage ways.</p>

Easements	Funds may be used to purchase land or conservation easements on land considered developable, for the purpose of preventing construction or soil disturbance activities that would constitute a P source to the lake. The land being preserved must have characteristics making it uniquely attractive to development (i.e., a commercially-zoned lot on a high-use corridor road; a developable shorefront lot).
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EXAMPLES of UNACCEPTABLE SCF Project Work

Unacceptable work would generally include work that only provides for reconstruction or maintenance of a problem road or other land use without providing for treatment of P in runoff leaving the road; work that only incorporates erosion and sedimentation control BMPs that don't treat P; regular maintenance/repair of *existing* BMPs; or work that does not address a significant P source.

Some examples of unacceptable projects are:

- 1.) Projects that provide only minimal or marginally effective P removal;
- 2.) Camp road reconstruction and grading or ditch repair that does not provide adequately-built and maintained turnout/buffer combinations where applicable, or does not provide other treatment BMPs as necessary for adequate P treatment of runoff;
- 3.) Shorefront riprap is unacceptable, unless an eroding shoreline is known/observed to be a significant source of phosphorus to the lake, such as the eroding clay bluffs on Webber Pond/China Lake.
- 4.) Planting of minimal, landscaped buffers on shorefront lots (see 'Buffers' section above).
- 5.) Installation of infiltration trenches to treat runoff from an eroding gravel road, if they are being proposed because too much maintenance is otherwise considered necessary.