



DEPARTMENT ORDER

IN THE MATTER OF

TOWN OF SORRENTO	)	MAINE POLLUTANT DISCHARGE
SORRENTO, HANCOCK COUNTY, MAINE	)	ELIMINATION SYSTEM PERMIT
PUBLICLY OWNED TREATMENT WORKS	)	AND
#ME0102130	)	WASTE DISCHARGE LICENSE
#W002280-6A-H-R	)	<b>RENEWAL</b>
	<b>APPROVAL</b>	

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S. §§ 411 – 424-C, *Water Classification Program*, 38 M.R.S. §§ 464 – 470 and *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251 *et seq*, and applicable rules of the Department of Environmental Protection (“Department”), the Department has considered the application of the TOWN of SORRENTO (“town “or “permittee”) with its supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

**APPLICATION SUMMARY**

On April 8, 2022, the Department accepted as complete for processing an application from the TOWN of SORRENTO for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0102130/ Maine Waste Discharge License (WDL) #W002280-6A-G-R which was issued by the Department on March 2, 2017 and authorized the daily maximum discharge of 3,420 gallons per day (GPD) of secondary treated sanitary wastewater from a municipal wastewater treatment facility to the Atlantic Ocean at Back Cove, Class SB, in Sorrento, Maine.

**PERMIT SUMMARY**

This permit carries forward all the terms and conditions of the previous permit except this permit:

1. Establishes a monthly average limit of 8 CFU or MPN/100 mL and a daily maximum limit of 54 CFU or MPN/100 mL for Enterococci bacteria from April 15<sup>th</sup> through October 31<sup>st</sup> with a 1/Month monitoring frequency pursuant to *Standards for Classification of Estuarine and Marine Waters*, 38 M.R.S. §465-B (2).
2. Establishes a 1/month testing requirement for fecal coliform bacteria with a monthly average of 14 CFU or MPN / 100mL and a daily maximum of 31 CFU or MPN / 100mL pursuant to *Standards for Classification of Estuarine and Marine Waters*, 38 M.R.S. §465-B (2) and The National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish – 2023 Revision.
3. Establishes a monthly average limit of 12 ng/L and daily maximum limit of 18 ng/L with a once per year monitoring frequency during the period April 15<sup>th</sup>- October 31<sup>st</sup> for Total Mercury.

**PERMIT SUMMARY (cont'd)**

4. Expands the monitoring period for BOD5, TSS, Total Residual Chlorine, Settleable Solids and pH, to April 15th through October 31st to align with the enterococcus monitoring period.

**CONCLUSIONS**

BASED on the findings summarized in the attached Fact Sheet dated May 1, 2026, and subject to the Conditions listed below, the Department makes the following conclusions:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, *Classification of Maine Waters*, 38 M.R.S. §464(4)(F), will be met, in that:
  - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected.
  - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected.
  - (c) Where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification.
  - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification that higher water quality will be maintained and protected; and
  - (e) Where a discharge will result in lowering the existing water quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of Licenses*, 38 M.R.S. § 414-A(1)(D).

**ACTION**

THEREFORE, the Department APPROVES the application of the TOWN of SORRENTO to discharge a daily maximum flow of 3,420 gallons per day of secondary treated sanitary wastewater to the Atlantic Ocean at BACK COVE, Class SB, in SORRENTO, Maine, SUBJECT TO ALL APPLICABLE STANDARDS AND REGULATIONS AND THE FOLLOWING CONDITIONS:

1. *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, copy attached.
2. The attached Special Conditions, including any effluent limitations and monitoring requirements.
3. This permit becomes effective upon the date of signature below and expires at midnight five (5) years from the effective date. If a renewal application is timely submitted and accepted as complete for processing prior to the expiration of this permit, the terms and conditions of this permit and all subsequent modifications and minor revisions remain in effect until final Department decision on the renewal application becomes effective. [*Maine Administrative Procedure Act*, 5 M.R.S. § 10002 and Department Rule *Concerning the Processing of Applications and Other Administrative Matters*, 06-096 C.M.R. ch. 2 § 20(A) (effective September 15, 2024)].

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

DONE AND DATED AT AUGUSTA, MAINE, THIS 1 DAY OF May 2026.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY *Brian Kavanah*  
For MELANIE LOYZIM, Commissioner

Date of initial receipt of application March 29, 2022

Date of application acceptance April 8, 2022

This Order prepared by Rod Robert, Bureau of Water Quality

**SPECIAL CONDITIONS**

**A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS**

- The permittee is authorized to discharge **secondary treated sanitary wastewater via Outfall #001A** to the Atlantic Ocean at Back Cove in Sorrento, Maine. Such discharges must be limited and monitored by the permittee as specified below <sup>(1)</sup>:

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Monthly Average</u>	<u>Weekly Average</u>	<u>Daily Maximum</u>	<u>Measurement Frequency</u>	<u>Sample Type</u>
<b>Flow</b> [50050]	--	--	3,420 GPD [07]	--	--	--	--	--
<b>BOD<sub>5</sub></b> <sup>(2)</sup> (April 15th-October 31st) [00310]	1.0 lbs./day [26]	1.3 lbs./day [26]	1.4 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month <sup>(2)</sup> [01/30]	Grab [GR]
<b>TSS</b> <sup>(2)</sup> (April 15th-October 31st) [00530]	1.0 lbs./day [26]	1.3 lbs./day [26]	1.4 lbs./day [26]	30 mg/L [19]	45 mg/L [19]	50 mg/L [19]	1/Month <sup>(2)</sup> [01/30]	Grab [GR]
<b>Settleable Solids</b> <sup>(2)</sup> (April 15th-October 31st) [00545]	--	--	--	--	--	0.3 ml/L [25]	1/Month <sup>(2)</sup> [01/30]	Grab [GR]
<b>Fecal Coliform Bacteria</b> <sup>(3)</sup> (April 15th-October 31st) [31616]	--	--	--	14 CFU/100 mL <sup>(5)</sup> [13]	--	31 CFU/100 mL <sup>(5)</sup> [13]	1/Month [01/30]	Grab [GR]
<b>Enterococci Bacteria</b> <sup>(4)</sup> (April 15 <sup>th</sup> -October 31 <sup>st</sup> ) [61211]	---	---	---	8 CFU/100mL [13]	---	54 CFU/100mL [13]	1/Month [1/30]	Grab [GR]
<b>Total Residual Chlorine</b> <sup>(5)</sup> (April 15th-October 31st) [50060]	--	--	--	--	--	1.0 mg/L [19]	1/Month [12/30]	Grab [GR]
<b>pH</b> (April 15th-October 31st) [00400]	--	--	--	--	--	6.0 – 9.0 SU [12]	1/Month <sup>(2)</sup> [01/30]	Grab [GR]
<b>Mercury, total</b> <sup>(2, 6)</sup> [71900]	--	--	--	12.0 ng/L [3M]	--	18.0 ng/L [3M]	1/Year [01/01]	Grab [GR]

## SPECIAL CONDITIONS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

#### Footnotes

- 1. Sampling** - All effluent monitoring shall be conducted at a location following the last treatment unit in the treatment process to be representative of end-of-pipe effluent characteristics. A routine sampling program must be developed in which samples are taken at the same location, same time and same days of the week each month. Occasional deviations from the routine sampling program are allowed, but the reason for the deviation must be documented as an electronic attachment to the applicable discharge monitoring report.

Sampling and analysis must be conducted in accordance with a) methods approved by 40 Code of Federal Regulations (CFR) Part 136; b) alternative methods approved by the Department in accordance with the procedures in 40 CFR Part 136; or c) as otherwise specified by the Department. Samples that are sent out for analysis shall be analyzed by a laboratory certified by the State of Maine's Department of Health and Human Services. Samples that are sent to a publicly owned treatment works (POTW) licensed pursuant to Waste discharge licenses, 38 M.R.S. § 413 are subject to the provisions and restrictions of Maine Comprehensive and Limited Environmental Laboratory Certification Rules, 10-144 CMR ch.263 (last amended March 15, 2023). If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the discharge monitoring report (DMR).

In accordance with 40 CFR § 122.44(i)(1)(iv), the permittee must monitor according to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O, for the analysis of pollutants or pollutant parameters (except WET). A method is "sufficiently sensitive" when: 1) The method minimum level (ML) is at or below the level of the effluent limitation established in the permit for the measured pollutant or pollutant parameter; or 2) The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR chapter I, subchapter N or O for the measured pollutant or pollutant parameter. The term "minimum level" refers either to the sample concentration equivalent to the lowest calibration point in a method or a multiple of the method detection limit (MDL), whichever is higher. Minimum levels may be obtained in the following ways: they may be published in a method; they may be based on the lowest acceptable calibration point used by a laboratory; or they may be calculated by multiplying the MDL in a method, or the MDL determined by a laboratory, by a factor.

## SPECIAL CONDITIONS

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS (cont'd)

2. **Monitoring** – Monitoring for BOD5, TSS, TRC, Settleable Solids, Fecal Coliform, Enterococcus bacteria, and pH, are required only during the period of April 15 through October 31.
3. **Fecal Coliform** –. The monthly average fecal coliform limit is a geometric mean, and results must be calculated and reported as such. The minimum monitoring frequency is once per month.
4. **Enterococcus bacteria** – The monthly average enterococcus bacteria limitation is a geometric mean and sample results must be calculated and reported as such. The minimum monitoring frequency is once per month.
5. **Total residual chlorine (TRC)** – Limitations and monitoring requirements are in effect any time elemental chlorine or chlorine-based compounds are utilized to disinfect the discharge(s). The minimum monitoring frequency is once per month. Sampling events must be separated by at least 14 days. The permittee must utilize a USEPA-approved test method capable of bracketing the TRC limitations specified in this permitting action. Monitoring for TRC is only required when elemental chlorine or chlorine-based compounds are in use for effluent disinfection. For instances when a facility has not disinfected with chlorine-based compounds for an entire reporting period, the facility must report “NODI-9” for this parameter on the monthly DMR or “N9” if the submittal is an electronic DMR.
6. **Total mercury**- The permittee must conduct all mercury monitoring required by this permit or required to determine compliance with interim limitations established pursuant to Interim Effluent Limitations and Controls for the Discharge of Mercury, 06-096 C.M.R. ch. 519 in accordance with the USEPA’s “clean sampling techniques” found in USEPA Method 1669, Sampling Ambient Water for Trace Metals At EPA Water Quality Criteria Levels. All mercury analyses must be conducted in accordance with USEPA Method 1631, Determination of Mercury in Water by Oxidation, Purge and Trap, and Cold Vapor Fluorescence Spectrometry. The Department’s reporting form for mercury test results is available on the Department’s website at:  
[https://www.maine.gov/dep/water/wd/municipal\\_industrial/ToxSheetMay2020.xlsx](https://www.maine.gov/dep/water/wd/municipal_industrial/ToxSheetMay2020.xlsx)

Compliance with the monthly average limitation established in Special Condition A.1 of this permit will be based on the cumulative arithmetic mean of all mercury tests results that were conducted utilizing sampling Methods 1669 and analysis Method 1631E on file with the Department for this facility.

## SPECIAL CONDITIONS

### A. NARRATIVE EFFLUENT LIMITATIONS (cont'd)

1. The permittee must not discharge effluent that contains a visible oil sheen, foam or floating solids at any time which would impair the uses designated by the classification of the receiving waters.
2. The permittee must not discharge effluent that contains materials in concentrations or combinations which are hazardous or toxic to aquatic life, or which would impair the uses designated by the classification of the receiving waters.
3. The permittee must not discharge effluent that imparts color, taste, turbidity, toxicity, radioactivity or other properties which cause those waters to be unsafe for the designated uses and characteristics ascribed to their classification.
4. The permittee must not discharge effluent that lowers the quality of any classified body of water below such classification or lower the existing quality of any body of water if the existing quality is higher than the classification.

### B. TREATMENT PLANT OPERATOR

The treatment facility must be operated by a person holding a minimum of a **Maine Grade II** Biological Treatment certificate (or higher) or must be a Professional Engineer licensed in the State of Maine pursuant to *Sewerage Treatment Operators*, 32 M.R.S. § 4171-4182 and *Regulations for Wastewater Operator Certification*, 06-096 C.M.R. Ch. 531 (effective July 24, 2023). All proposed contracts for facility operation by any person must be reviewed by the Department before the permittee may engage the services of the contract operator.

### C. AUTHORIZED DISCHARGES

The permittee is authorized to discharge only in accordance with 1) the permittee's General Application for Waste Discharge Permit, accepted for processing on April 8, 2022, 2) the terms and conditions of this permit; and 3) only from Outfall #001A. Discharges of wastewater from any other point source are not authorized under this permit and must be reported in accordance with Standard Condition D(1)(f), *Twenty-four-hour reporting*, of this permit.

## SPECIAL CONDITIONS

### D. NOTIFICATION REQUIREMENT

In accordance with Standard Condition D, the permittee must notify the Department of the following.

1. Any introduction of pollutants into the wastewater collection and treatment system from an indirect discharger in a primary industrial category discharging process wastewater; and
2. Any substantial change in the volume or character of pollutants being introduced into the wastewater collection and treatment system by a source introducing pollutants into the system at the time of permit issuance.
3. For the purposes of this section, adequate notice must include information on:
  - (a) The quality and quantity of wastewater introduced to the wastewater collection and treatment system; and
  - (b) Any anticipated impact of the change in the quantity or quality of the wastewater to be discharged from the treatment system.

### E. OPERATION & MAINTENANCE (O&M) PLAN

The permittee must have a current written comprehensive Operation & Maintenance (O&M) Plan. The plan must provide a systematic approach by which the permittee must always, properly operate and maintain all facilities and systems of transport, treatment, and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.

**By December 31 of each year, or within 90 days of any process changes or minor equipment upgrades,** the permittee must evaluate and modify the O&M Plan including site plan(s) and schematic(s) for the wastewater treatment facility to ensure that it is up to date. The O&M Plan must be always kept on site and made available to Department and USEPA personnel upon request.

**Within 90 days of completion of new or substantial upgrades** of the wastewater treatment facility the permittee must submit the updated O&M Plan to their Department inspector for review and comment.

## SPECIAL CONDITIONS

### F. SEPTIC TANK MAINTENANCE

1. The permittee must regularly inspect and maintain septic tanks and other treatment tanks to ensure that they are providing the best practicable treatment in accordance with Maine State Rule, *Subsurface Wastewater Disposal Rule*, 10-144 Ch. 241. Tank contents must be removed whenever the sludge and scum occupy one-third of the tank's liquid capacity or whenever contents' level approaches the maximum design capacity. After pumping, the tanks must be checked for damage at key joints and the inlet and outlet baffles. Any damage must be promptly repaired.
2. The permittee must maintain log(s) of inspections and maintenance activities that record:
  - a) the date of inspection or maintenance activity,
  - b) notes on observations,
  - c) repairs conducted,
  - d) dates of pumping,
  - e) quantities of material removed,
  - f) name and phone number of the licensed contractor(s) performing the work,
  - g) pumping frequency,
  - h) other information relevant to the safe and effective operation and maintenance of septic tanks.

The permittee must always maintain the inspection and maintenance log(s) onsite and available to Department personnel upon request.

### G. MONITORING AND REPORTING

#### Electronic Reporting

*NPDES Electronic Reporting*, 40 C.F.R. 127, requires MEPDES permit holders to submit monitoring results obtained during the previous month on an electronic discharge monitoring report to the regulatory agency utilizing the USEPA electronic system.

Electronic Discharge Monitoring Reports (DMRs) submitted using the USEPA NetDMR system, must be:

1. Submitted by a facility authorized signatory; and
2. Submitted no later than **midnight on the 15<sup>th</sup> day of the month** following the completed reporting period.

Documentation submitted in support of the electronic DMR may be attached to the electronic DMR. Documentation submitted electronically to the Department in support of the electronic DMR must be submitted no later than midnight on the 15th day of the month following the completed reporting period.

## **SPECIAL CONDITIONS**

### **H. REOPENING OF PERMIT FOR MODIFICATIONS**

In accordance with *Conditions of Licenses*, 38 M.R.S. § 414-A(5) and upon evaluation of the test results in the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at any time and with notice to the permittee/Town, modify this permit to: (1) include effluent limitations necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information.

### **I. SEVERABILITY**

In the event that any provision or part thereof of this permit is declared to be unlawful by a reviewing court, the remainder of the permit shall remain in full force and effect and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT  
AND  
WASTE DISCHARGE LICENSE**

**FACT SHEET**

DATE: **MAY 1, 2026**

MEPDES PERMIT: **#ME0102130**  
WASTE DISCHARGE LICENSE: **#W002280-6A-H-R**

NAME AND ADDRESS OF APPLICANT:

**TOWN OF SORRENTO  
79 POMELA AVENUE  
SORRENTO, MAINE 04677**

COUNTY: **HANCOCK**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**TOWN OF SORRENTO  
OCEAN AVENUE  
SORRENTO, MAINE 04677**

RECEIVING WATER / CLASSIFICATION: **ATLANTIC OCEAN AT BACK COVE / CLASS SB**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER:

**ANNALEIS HAFFORD  
SENIOR PROCESS ENGINEER  
(207) 223-2232  
[annaleis@olverassociatesinc.com](mailto:annaleis@olverassociatesinc.com)**

**1. APPLICATION SUMMARY**

- a. Application: On April 8, 2022, the Department of Environmental Protection (“Department”) accepted as complete for processing an application from the TOWN of SORRENTO (“town” or “permittee”) for the renewal of combination Maine Pollutant Discharge Elimination System (MEPDES) permit ME0102130/ Maine Waste Discharge License (WDL) #W002280-6A-G-R which was issued by the Department on March 2, 2017 and authorized the daily maximum discharge of 3,420 gallons per day (GPD) of secondary treated sanitary wastewater from a municipal wastewater treatment facility to the Atlantic Ocean at Back Cove, Class SB, in Sorrento, Maine.

## 2. PERMIT SUMMARY

- a. Terms and conditions: This permit carries forward all the terms and conditions of the previous permit, except that this permit:
1. Establishes a monthly average limit of 8 CFU or MPN/100 mL and a daily maximum limit of 54 CFU or MPN/100 mL for Enterococci bacteria from April 15th through October 31st with a 1/Month monitoring frequency pursuant to Standards for Classification of Estuarine and Marine Waters, 38 M.R.S. §465-B (2).
  2. Establishes a 1/month testing requirement for fecal coliform bacteria with a monthly average of 14 CFU or MPN / 100mL and a daily maximum of 31 CFU or MPN / 100mL pursuant to Standards for Classification of Estuarine and Marine Waters, 38 M.R.S. §465-B (2) and The National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish – 2023 Revision.
  3. Establishes a monthly average limit of 12 ng/L and daily maximum limit of 18 ng/L with a once per year monitoring frequency during the period April 15<sup>th</sup> through October 31st for Total Mercury.
  4. Expands the monitoring period for BOD5, TSS, Total Residual Chlorine, Settleable Solids and pH, to April 15th through October 31st to align with the enterococcus monitoring period.
- b. History: This section provides a summary of significant regulatory actions associated with the Town's wastewater treatment facility.

August 21, 1978 - The Department issued WDL #2280 that authorized the discharge of untreated sanitary wastewater from a municipal sewer system to the tidewaters of Sorrento. Prior to this licensing action, the Town of Sorrento held a Time Schedule Variance which allowed for the discharge of untreated wastewater.

January 3, 1984 - The Department renewed WDL #2280 that authorized the discharge of untreated sanitary wastewater. At the time of license renewal, the Town held a Time Schedule Variance from the Department which allowed for the discharge of untreated wastewater. The waste discharge license expired on January 3, 1987.

September 17, 1986 – The U.S. Environmental Protection Agency (USEPA) issued National Pollutant Discharge Elimination System (NPDES) permit renewal #ME0102130 for a five-year term.

Fall of 1989 – Ten sandfilter systems were installed and fully functional.

## 2. PERMIT SUMMARY (cont'd)

November 2, 1993 - The Department renewed the WDL for the Sorrento facility by issuing WDL #W002280-58-A-R for the discharge of 3,420 GPD of secondary treated wastewater to Back Cove, Class SB, in Sorrento, Maine.

February 15, 1995 - The Department issued a letter notifying the licensee that the facility was exempt from toxicity testing requirements of Department Rule Chapter 530.5, *Surface Water Toxics Control Program*, which was adopted on October 12, 1994.

January 12, 2001 – The Department received authorization from the USEPA to administer the NPDES permit program in Maine, excluding areas of special interest to Maine Indian Tribes. From that point forward, the program has been referred to as the MEPDES program, and MEPDES permit #ME0102130 has been utilized as the primary reference number for the Town's wastewater treatment facility.

December 18, 2001 – The Department issued combination WDL/MEPDES permit #W002280-5K-B-R/#ME0102130 to the Town for a five-year term.

December 11, 2006 – The Town submitted a timely and complete General Application to the Department for renewal of the December 18, 2001, MEPDES permit. The application was accepted for processing on December 13, 2006, and was assigned WDL #W002280-6A-C-R / MEPDES #ME0102130.

April 27, 2007 – The Department issued a minor permit revision to modify the minimum monitoring frequency requirements for TRC and fecal coliform bacteria to twice per month.

September 6, 2011 – The Department issued combination WDL/MEPDES permit #W002280-6A-C-R/#ME0102130 to Town for a five-year term.

December 6, 2011 – The Department issued a minor permit revision to modify the minimum monitoring frequency requirements for biological oxygen demand, total suspended solids, settleable solids and pH to once per month during the period of May 1 through September 30.

August 24, 2015 – The Department issued a minor permit revision to modify the water quality based total residual chlorine concentration limits in Waste Discharge License W002280-6A-C-R/ME0102130.

March 15, 2016 – The Department accepted as complete for processing an application from the TOWN of SORRENTO to renew WDL #W002280-6A-C-R / MEPDES #ME0102130.

March 2, 2017 – The Department issued combination WDL/MEPDES permit #W002280-6A-G-R/#ME0102130 to Town for a five-year term.

## 2. PERMIT SUMMARY (cont'd)

April 8, 2022 – The Department accepted as complete for processing an application from the TOWN of SORRENTO to renew WDL #W002280-6A-G-R / MEPDES #ME0102130.

- c. Source Description: Sorrento's wastewater treatment facilities receive sanitary wastewater from residential and commercial buildings. The facilities do not receive industrial flows and are not authorized to receive septage. The collection system does not have any combined sewer overflows but does have two stormwater catch basins that direct stormwater to the final dechlorination maintenance hole. During the winter months the town's system is only utilized by one residence and the town's post office restroom.
- d. Wastewater Treatment: The Town operates a small central treatment system in the village area that includes ten individual sand filters that discharge into a common outfall sewer. Twelve buildings and associated onsite septic systems discharge to sand filters. Eight of these filters serve individual properties and two filters serve groups of multiple properties. Tablet chlorination units provide disinfection of the filtered wastewater, which then flows into a common collector sewer (comprising approximately 900 linear feet of 10-in diameter clay pipe) to the dechlorination maintenance hole. At the dechlorination maintenance hole, a tablet dechlorination system provides removal of residual chlorine. An 18-in diameter HDPE pipe conveys water by gravity from the maintenance hole to the outfall.

The total sanitary wastewater design flow rate through the sand filters is 3,420 gpd (monthly average). The permittee discharges treated wastewater through Outfall #001A, which is an 18-in diameter outfall pipe, 11 ft below mean sea level and 5.81 ft below mean low water in Back Cove.

Subsurface, onsite septic systems with leach fields also provide treatment for several private lots within the Town of Sorrento.

Fact Sheet's Attachment A shows the location of the facility and receiving waters and Attachment B provides a layout of the treatment facilities.

## 3. CONDITIONS OF PERMITS

*Conditions of licenses*, 38 M.R.S. § 414-A, requires that the effluent limitations prescribed for discharges, including, but not limited to, effluent toxicity, require the application of best practicable treatment (BPT), be consistent with the U.S. Clean Water Act, and ensure that the receiving waters attain the State water quality standards as described in *Maine's Surface Water Classification System*. In addition, *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and Department rule *Surface Water Toxics Control Program*, 06-096 C.M.R. Ch. 530 (effective March 21, 2012), require the regulation of toxic substances so they do not to exceed levels set forth in *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 C.M.R. Ch. 584 (amended February 16, 2020), and to ensure safe levels for the discharge of toxic pollutants in order to maintain and protect existing and designated uses of surface waters.

#### 4. RECEIVING WATER QUALITY STANDARDS

*Classification of estuarine and marine waters*, 38 M.R.S. § 469 classifies the estuarine and marine waters of Sorrento as Class SB waters. *Standards for classification of estuarine and marine waters*, 38 M.R.S. § 465-B (2) describes the standards for Class SB waters as follows:

2. *Class SB waters. Class SB waters shall be the 2nd highest classification.*

*A. Class SB waters must be of such quality that they are suitable for the designated uses of recreation in and on the water, fishing, aquaculture, propagation and harvesting of shellfish, industrial process and cooling water supply, hydroelectric power generation, navigation and as habitat for fish and other estuarine and marine life. The habitat must be characterized as unimpaired.*

*B. Class SB waters must be of sufficient quality to support all estuarine and marine species indigenous to those waters without detrimental changes in the resident biological community. The dissolved oxygen content of Class SB waters may not be less than 85% of saturation. Between April 15th and October 31st, the number of enterococcus bacteria in these waters may not exceed a geometric mean of 8 CFU or MPN per 100 milliliters in any 90-day interval or 54 CFU or MPN per 100 milliliters in more than 10% of the samples in any 90-day interval. The number of total coliform bacteria or other specified indicator organisms in samples representative of the waters in shellfish harvesting areas may not exceed the criteria recommended under the National Shellfish Sanitation Program, United States Food and Drug Administration as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2019 revision) or any successor publication.*

*C. Discharges to Class SB waters may not cause adverse impact to estuarine and marine life in that the receiving waters must be of sufficient quality to support all estuarine and marine species indigenous to the receiving water without detrimental changes in the resident biological community. There may be no new discharge to Class SB waters that would cause closure of open shellfish areas by the Department of Marine Resources. For the purpose of allowing the discharge of aquatic pesticides approved by the department for the control of mosquito-borne diseases in the interest of public health and safety, the department may find that the discharged effluent will not cause adverse impact to estuarine and marine life as long as the materials and methods used provide protection for nontarget species. When the department issues a license for the discharge of aquatic pesticides authorized under this paragraph, the department shall notify the municipality in which the application is licensed to occur and post the notice on the department's publicly accessible website.*

## 5. RECEIVING WATER QUALITY CONDITIONS

*The State of Maine 2018/2020/2022 Integrated Water Quality Monitoring and Assessment Report* (Report), prepared by the Department pursuant to Sections 303(d) and 305(b) of the Federal Water Pollution Control Act, lists Back Cove, which includes the point of discharge at as: Assessment Unit ID ME010500021410\_SB\_EI\_PE, in Category 3: Estuarine and Marine Waters with Insufficient Data or Information to Determine if Shellfish Harvesting Designated Use is Attained, and Category 5-D: Estuarine and Marine Waters Impaired for Non-Shellfish Harvesting Designated Uses by Legacy Pollutants

The Maine Department of Marine Resources (MEDMR) closes shellfish harvesting areas if there are known sources of discharges with unacceptable bacteria levels (thresholds established in the National Shellfish Sanitation Program) or maintains shellfish harvesting closure areas due to lack of updated information regarding ambient water quality conditions and current shoreline surveys. In addition, the MEDMR prohibits shellfish harvesting in the immediate vicinity of all wastewater treatment outfall pipes as a precautionary measure in the event of a failure in the treatment plant's disinfection system. Thus, the Back Cove in proximity to Outfall #001A is closed to shellfish harvesting. The shellfish closure area can be found at <https://www.maine.gov/dmr/shellfish-sanitation-management/maps/index.html>

The report states that all estuarine and marine water capable of supporting American lobster are listed in Category 5-D for shellfish consumption due to elevated levels of PBCs and other persistent, bioaccumulating substances in tomalley. The report notes that there is a statewide marine consumption advisory for a variety of saltwater finfish and shellfish based on elevated mercury, PCB, and dioxin levels.

The Department is making the determination that compliance with the fecal coliform bacteria and other secondary wastewater treatment limits established in this permitting action ensure that the discharge of secondary treated wastewater from the Town of Sorrento will not cause or contribute to the failure of the receiving waters to meet the standards of its designated classification.

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Flow: This permit carries forward a daily maximum discharge flow limit of 3,420 gallons per day (GPD) for secondary treated wastewater via Outfall #001A, which is based on the design capacities of the ten sandfilter systems. Effluent flow monitoring is not required given the relatively small volume of wastewater the residential dwellings connected to the system generate.
- b. Dilution Factors: 06-096 CMR ch.530(4)(A)(2)(a) states that, *“For discharges to the ocean, dilution must be calculated as near-field or initial dilution, or that dilution available as the effluent plume rises from the point of discharge to its trapping level, at mean low water level and slack tide for the acute exposure analysis, and at mean tide for the chronic exposure analysis using appropriate models determined by the Department such as MERGE, CORMIX or another predictive model.”*

The Department has calculated dilution factors using plan and profile information provided by the permittee and the CORMIX model. The Department has determined the dilution factors for the discharge of 3,420 gallons per day from the wastewater treatment facility are as follows:

Acute: 110:1      Chronic: 3,875:1      Harmonic Mean 11,625:1

- c. Biochemical Oxygen Demand (BOD<sub>5</sub>) and Total Suspended Solids (TSS): This permit carries forward, monthly average and weekly average technology-based concentration limits (TBELS) of 30 mg/L and 45 mg/L, respectively, for BOD<sub>5</sub> and TSS based on the secondary treatment requirements specified at *Effluent Guidelines and Standards*, 06-096 CMR Ch. 525(3)(III) (effective January 12, 2001), and a daily maximum concentration limit of 50 mg/L, which is based on a Department best professional judgment of best practicable treatment for secondary treated wastewater. The technology-based monthly average, weekly average, and daily maximum mass limits of 1.0 lbs./day, 1.3 lbs./day, and 1.4 lbs./day, respectively, established in a previous permitting action for BOD<sub>5</sub> and TSS are based on the discharge flow limit of 3,420 GPD and the applicable concentration limits which are also carried forward in this permit.

A review of the quarterly effluent BOD<sub>5</sub> and TSS data as reported on the DMRs submitted to the Department for the period March 2017 – March 2024 indicates the Town has been in 100 % compliance with all numeric limits. This permit carries forward the previously established once per month minimum monitoring frequency requirement for BOD<sub>5</sub> and TSS and expands the monitoring period to April 15th through October 31st.

**6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)**

- d. Settleable Solids: This permit carries forward, a daily maximum concentration limit of 0.3 ml/L, which is considered by the Department as best professional judgment of best practicable treatment.

A summary of the effluent settleable solids data as reported on the DMRs submitted to the Department for the period March 2017 through March 2024 (N=24) indicates that the facility has been in compliance with the 0.3 ml/L limit during each sampling event. This permit carries forward the minimum monitoring frequency requirement of once per month for settleable solids and expands the monitoring period to April 15 through October 31.

- e. Fecal Coliform Bacteria: The previous permit established a seasonal monthly average and daily maximum concentration limits of 15/100 mL and 50/100 mL, respectively, for fecal coliform bacteria. The fecal coliform limits applied between May 15th and September 30th of each year.

This permit amends the fecal coliform effluent limits to a monthly average of 14CFU/100 mL and a daily maximum of 31CFU/100 mL, pursuant to 38 M.R.S. 465-B (2)B and the National Shellfish Sanitation Program (NSSP) and the United States Food and Drug Administration (USDA) as set forth in its publication "Guide for the Control of Molluscan Shellfish" (2023 revision). These effluent limits apply from April 15<sup>th</sup> through October 31<sup>st</sup> of each year of the permit.

A review of the monthly Discharge Monitoring Report (DMR) data for calendar years March 2017 through March 2024 indicates the following:

Summary of fecal coliform data for Outfall #001A (N = 34)

<b>Value</b>	<b>Limit (#/100 mL)</b>	<b>Range (#/100 mL)</b>	<b>Mean (#/100 mL)</b>
Monthly average (as geometric mean)	15	<1.0 – 8.0	3.07
Daily maximum	50	<1.0 – 64	6.85

- The Town had one excursion above the daily maximum limit in mid-2017.

Minimum monitoring frequency requirements in MEPDES permits are prescribed by 06-096 C.M.R. ch. 523 § 5(i). The USEPA has published guidance entitled, Interim Guidance for Performance Based Reductions of NPDES Permit Monitoring Frequencies (USEPA Guidance April 1996). In addition, the Department has supplemented the USEPA guidance with its own guidance entitled, Performance Based Reduction of Monitoring Frequencies - Modification of EPA Guidance Released April 1996 (Maine DEP May 22, 2014). Both documents are being utilized to evaluate the compliance history for fecal coliform regulated by the previous permit to determine if a reduction in the monitoring frequencies is justified.

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Although USEPA's 1996 Guidance recommends evaluation of the most current two years of effluent data for a parameter, the Department is considering 34 months of data reports (March 2017 through March 2024).

A review of the monitoring data for fecal coliform indicates the ratio (expressed in percent) of the long-term effluent average to the monthly average limits can be calculated as 20% for fecal coliform.. According to Table I of the USEPA Guidance the monitoring requirement can be reduced 2/month to 1/month. Department guidance only allows monitoring frequencies to be reduced by no more than 50% of the initial testing frequency. This permitting action is reducing the monitoring frequency for Fecal Coliform from 2/month to 1/month.

- f. Enterococcus Bacteria: In addition to fecal coliform limits to protect the designated use of "propagation and harvesting of shellfish", it is appropriate to require end-of-pipe limits for enterococcus bacteria, based on current Maine criteria, to protect the designated use of "recreation in and on the water" on a seasonal basis. This permit newly establishes a monthly average limit of 8 colony forming units (CFU)/100 ml and a daily maximum of 54 CFU/100 ml for enterococcus bacteria based on current Maine criteria found in *Standards for classification of estuarine and marine waters*, 38 M.R.S. §465-B (2). The seasonal reporting period is from April 15th through October 31st. A 1/Month monitoring requirement is also established in this permit.
- g. Total Residual Chlorine (TRC): Limitations on TRC are specified to ensure that ambient water quality standards are maintained and that BPT technology is applied to the discharge. This permit carries forward the previously established daily maximum concentration limit of 1.0 mg/L for TRC. Department permitting actions impose the more stringent of either a water quality-based or BPT-based limit. With dilution factors as determined above, end-of-pipe (EOP) water quality-based concentration thresholds for TRC may be calculated as follows by using water quality-based effluent limits (WQBELS) derived from the above-described dilution factors and the water quality criteria from *Surface Water Quality Criteria for Toxic Pollutants*, 06-096 C.M.R. Ch. 584 (Appendix A, Table II; last amended February 16, 2020). End-of-pipe (EOP) WQBELS for TRC are as follows:

$$\begin{aligned} \text{Acute WQBEL} &= (\text{acute criterion}) \times (\text{acute dilution factor}) \\ \text{Acute WQBEL} &= (0.013 \text{ mg/L}) \times (110) = 1.43 \text{ mg/L} \end{aligned}$$

$$\begin{aligned} \text{Chronic WQBEL} &= (\text{chronic criterion}) \times (\text{chronic dilution factor}) \\ \text{Chronic WQBEL} &= (0.0075 \text{ mg/L}) \times (3,875) = 29.1 \text{ mg/L} \end{aligned}$$

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

The Department has established a daily maximum BPT limitation of 1.0 mg/L for facilities that disinfect their effluent with elemental chlorine or chlorine-based compounds. For facilities that dechlorinate the discharge to meet water quality-based thresholds, the Department has established daily maximum and monthly average BPT limits of 0.3 mg/L and 0.1 mg/L, respectively. The calculated water quality-based thresholds above are greater than the applicable technology-based standard of 1.0mg/L, therefore, the previously established 1.0 mg/L limitation is carried forward in this permit.

This permit carries forward the minimum monitoring frequency requirement for TRC of twice per month any time chlorine-based compounds are in use for effluent disinfection. Sampling events must be separated by at least 14 days. For instances when the chlorine-based compounds have not been utilized for effluent disinfection for an entire reporting period, the permittee must report "NODI-9" for this parameter on the monthly discharge monitoring report (DMR).

- h. pH: This permit carries forward the previously established pH range limit of 6.0 – 9.0 standard units (SU), based on the secondary treatment requirements prescribed at *Effluent Guidelines and Standards*, 06-096 CMR ch.525(3)(III)(c). This permit carries forward the minimum monitoring frequency requirement of once per month and expands the monitoring period to April 15th through October 31st.
- i. Mercury: Pursuant to *Certain deposits and discharges prohibited*, 38 M.R.S. § 420 and *Waste Discharge Licenses*, 38 M.R.S. § 413 and Interim Effluent Limitations and Controls for the Discharge of Mercury, 06-096 C.M.R. Ch. 519 (last amended October 6, 2001), licensed dischargers in the State of Maine have effluent limits for mercury and monitor their effluents for this parameter unless they meet the exclusion requirements provided in the rule.

In 2001, the Department established interim daily maximum and monthly average effluent limits for mercury for eligible dischargers using effluent mercury data collected by the permittees. At the time, the Town of Sorrento did not formally receive mercury effluent limits. However, the Department's records show the permittee has been collecting effluent samples and analyzing for mercury since 1999.

The Department's files indicate that the Department calculated interim effluent limits for mercury in 2010 and communicated the limits via email to the permittee. However, subsequent permits did not contain these limits. This permit incorporates the effluent limits that the Department previously calculated for Sorrento, based on data points submitted to the Department, to be a monthly average of 12.0 ppt and a daily maximum of 18.0 ppt total mercury.

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

06-096 C.M.R. Ch. 519(7)(A) requires that Group II dischargers, which includes the Town of Sorrento, to sample and analyze their effluent for mercury twice per year. However, the rule also allows the Department to adjust this frequency for seasonal and intermittent dischargers. As this fact sheet previously describes, the permittee's effluent varies seasonally, therefore this permit establishes a monitoring frequency of once per year, during the period of April 15th to October 31st, which aligns with the monitoring period for other effluent parameters.

- k. Nitrogen: Pursuant to 40 C.F.R. §122.44(d)(1), and Department rule 06-096 CMR Ch. 523 §5(d) NPDES/MEPDES permits must contain any requirements in addition to TBELs necessary to achieve water quality standards established under § 303 of the CWA. In addition, limitations “must control any pollutant or pollutant parameter (conventional, non-conventional, or toxic) which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including State narrative criteria for water quality”. See 40 C.F.R. § 122.44(d)(1)(i) and Department rule 06-096 CMR Ch. 523 §5(d). There is reasonable potential to cause or contribute to an excursion if the projected or actual in-stream concentration exceeds the applicable criterion. If the permitting authority determines that a discharge causes, has the reasonable potential to cause, or contributes to such an excursion, the permit must contain WQBELs for the pollutant. See 40 C.F.R. 122.44(d)(1)(iii) and Department rule 06-096 CMR Ch. 523 §5(d).

In determining reasonable potential, the permitting authority considers: 1) existing controls on point and non-point sources of pollution; 2) the variability of the pollutant or pollutant parameter in the effluent; 3) the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity); and 4) where appropriate, the dilution of the effluent in the receiving water. The permitting authority typically considers the statistical approach outlined in Technical Support Document for Water Quality-based Toxics Control (TSD) to determine if the discharge causes, or has the reasonable potential to cause, or contribute to an excursion above any WQS. See 40 C.F.R. § 122.44(d) and Department rule 06-096 CMR Ch. 523 §5(d). The permitting authority's quantitative approach statistically projects effluent concentrations based on available effluent data, which are then compared to the applicable WQC

The Department has no information as to the concentration of total nitrogen being discharged from the facility. However, the Department does have information from other small dischargers and small POTW's that indicates that at the end of 2025 discharges averaged 19.55 mg/L (N=336). Using the last ten years of data the average is 19.14 mg/L. (N=281) With a permitted flow limitation is 0.0034 MGD and an estimated discharge concentration of 19.14 mg/L, the discharge from the facility would be 0.54 lbs./day.

$$(0.0034 \text{ MGD}) (8.34 \text{ lbs./gal}) (19.14 \text{ mg/L}) = 0.54 \text{ lbs./day}$$

## 6. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Given the small volume of the discharge, the large dilution factors in the receiving water, and the potential influence of infiltration and stormwater on effluent characteristics, the Department's Division of Environmental Assessment determined that a reasonable potential analysis for total nitrogen for Sorrento's discharge is not necessary. Therefore, no limitations or monitoring requirements for Nitrogen are established in this permit.

1. Whole Effluent Toxicity (WET), Priority Pollutant, and Analytical Chemistry Testing: 38 M.R.S. § 414-A and 38 M.R.S. § 420 prohibit the discharge of effluents containing substances in amounts that would cause the surface waters of the State to contain toxic substances above levels set forth in Federal Water Quality Criteria as established by the USEPA. 06-096 CMR Ch.530 sets forth effluent monitoring requirements and procedures to establish safe levels for the discharge of toxic pollutants such that existing and designated uses of surface waters are maintained and protected, and narrative and numeric water quality criteria are met. Surface Water Quality Criteria for Toxic Pollutants, 06-096 CMR Ch. 584 sets forth ambient water quality criteria (AWQC) for toxic pollutants and procedures necessary to control levels of toxic pollutants in surface waters. 06-096 CMR Ch. 530(2)(A) specifies the dischargers subject to the rule as, "...all licensed dischargers of industrial process wastewater or domestic wastes discharging to surface waters of the State must meet the testing requirements of this section. Dischargers of other types of wastewater are subject to this subsection when and if the Department determines that toxicity of effluents may have reasonable potential to cause or contribute to exceedances of narrative or numerical water quality criteria." 06-096 CMR Ch. 530(2)(A) further specifies the criteria for the exemption of certain discharges from toxics testing as follows:

- (1) Discharges from individual discharge points licensed to discharge less than 50,000 gallons per day of solely domestic wastewater and with a chronic dilution factor of at least 50 to 1, provided no holding tank wastes containing chemicals are accepted by the facility.
- (2) Discharges from residential overboard discharge systems; or
- (3) Discharges from combined sewer overflow discharge points, provided the owner of the sewerage system is conducting or participating in a discharge abatement program.

The permittee's facility is exempt from the 06-096 CMR Ch.530 requirements as it permitted to discharge less than 50,000 gpd or solely domestic wastewater and the chronic dilution factor is greater than 50:1. However, should there be a substantial change in the characteristics of the discharge in the future; the Department may reopen this permit pursuant to Special Condition J, Reopening of Permit for Modifications, to incorporate the applicable whole effluent toxicity (WET), priority pollutant or analytical testing requirements cited above.

## 7. ANTI-BACKSLIDING

Federal regulation 40 CFR, §122.44(l) contains the criteria for what is often referred to as the anti-backsliding provisions of the Federal Water Pollution Control Act (Clean Water Act). In general, the regulation states that except for provisions specified in the regulation, effluent limitations, standards, or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit. Applicable exceptions include: (1) material and substantial alterations or additions to the permitted facility occurred after permit issuance which justify the application of a less stringent effluent limitation and (2) information is available which was not available at the time of the permit issuance (other than revised regulations, guidance, or test methods) and which would justify the application of less stringent effluent limitations at the time of permit issuance. All limitations in this permit are equally or more stringent than those in the previous permit.

## 8. ANTI-DEGRADATION

As permitted, the Department has determined the existing water uses will be maintained and protected and that the discharge will not cause or contribute to the failure of the Atlantic Ocean at Back Cove to meet the applicable standards for Class SB classification.

## 9. PUBLIC COMMENTS

Public notice of this application was made in the *Ellsworth American* newspaper on or about March 31, 2022. The Department receives public comments on an application until the date a final agency action is taken on the application. Those persons receiving copies of draft permits must have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to *Application Processing Procedures for Waste Discharge Licenses*, 06-096 CMR Ch. 522 (effective January 12, 2001).

## 10. DEPARTMENT CONTACTS

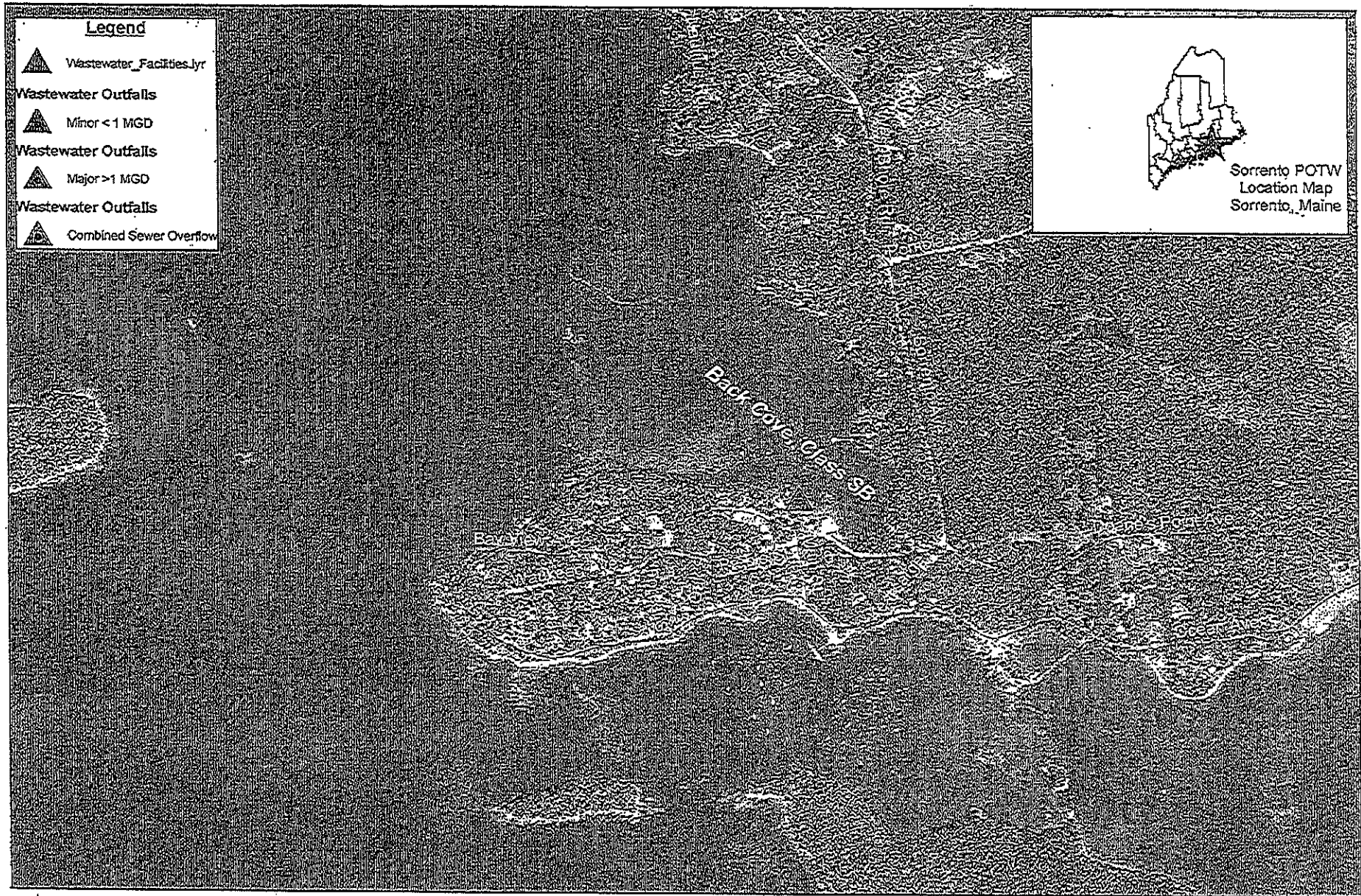
Additional information concerning this permitting action may be obtained from, and written comments sent to:

Rodney Robert  
Division of Water Quality Management  
Bureau of Water Quality  
Department of Environmental Protection  
17 State House Station  
Augusta, Maine 04333-0017 Telephone: (207)680-0576  
e-mail: [rodney.robert@maine.gov](mailto:rodney.robert@maine.gov)

## **11. RESPONSE TO COMMENTS**

During the period March 27, 2026, through the issuance of this permit, the Department solicited comments from the public, the regulatory community, and other interested parties. The Department did not receive comments on the Proposed Draft that resulted in substantive changes to this final permit. Therefore, a formal Response to Comments has not been prepared.

**ATTACHMENT A**



0 0.25 0.5 1 Miles

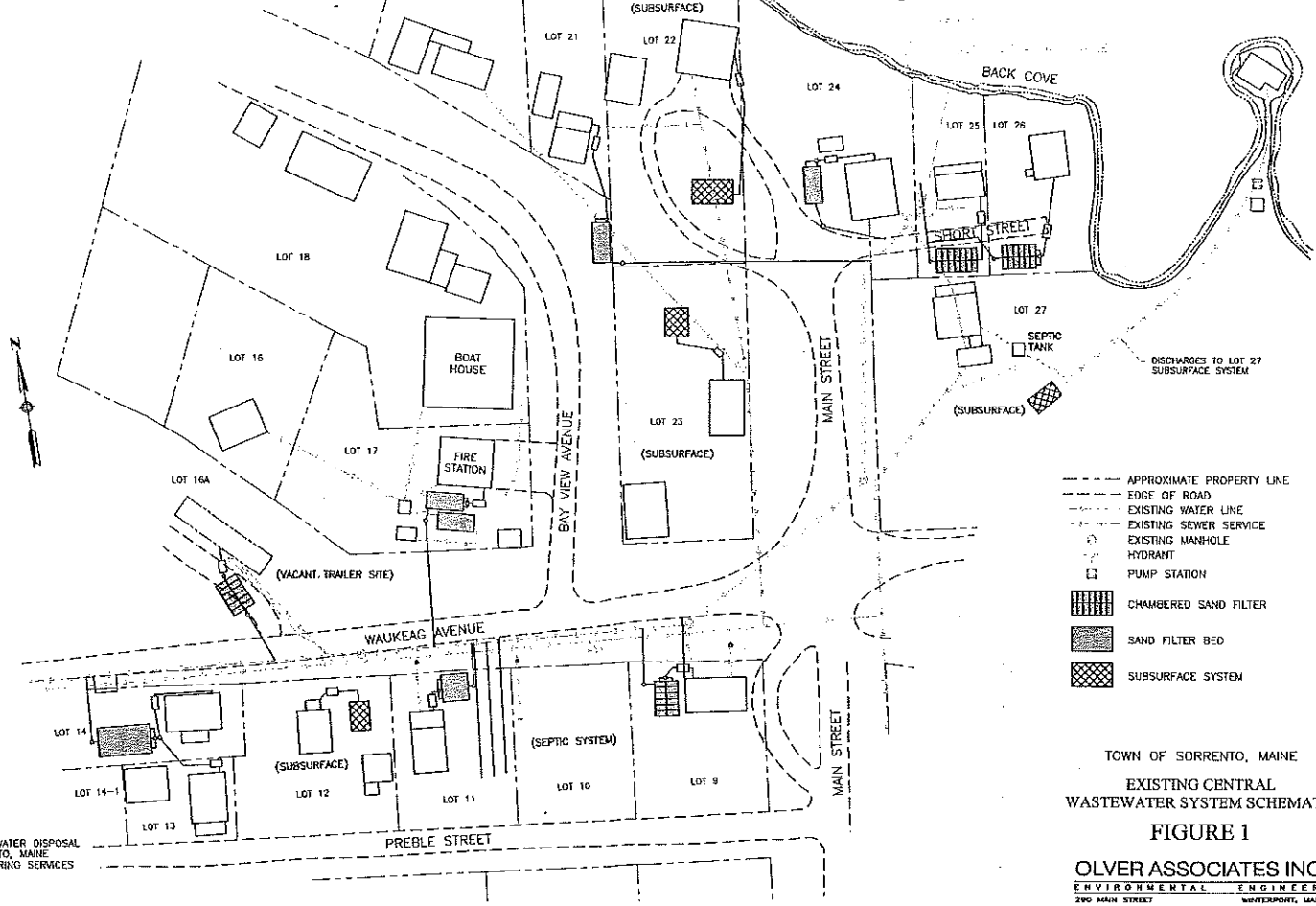
Town of Sorrento Wastewater Treatment Facility  
(Community Sandfilters), Sorrento, Maine



Map created by  
Maine DEP  
June 2011



# ATTACHMENT B



SOURCE:  
 PROPOSED WASTEWATER DISPOSAL  
 SYSTEMS, SORRENTO, MAINE  
 BY: CIVIL ENGINEERING SERVICES  
 BREWER, MAINE  
 DATED JULY, 1988

TOWN OF SORRENTO, MAINE  
 EXISTING CENTRAL  
 WASTEWATER SYSTEM SCHEMATIC  
 FIGURE 1

**OLVER ASSOCIATES INC.**  
 ENVIRONMENTAL ENGINEERS  
 290 MAIN STREET WINTERPORT, MAINE

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

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**A. GENERAL PROVISIONS**

**1. General compliance.** All discharges shall be consistent with the terms and conditions of this permit; any changes in production capacity or process modifications which result in changes in the quantity or the characteristics of the discharge must be authorized by an additional license or by modifications of this permit; it shall be a violation of the terms and conditions of this permit to discharge any pollutant not identified and authorized herein or to discharge in excess of the rates or quantities authorized herein or to violate any other conditions of this permit.

**2. Other materials.** Other materials ordinarily produced or used in the operation of this facility, which have been specifically identified in the application, may be discharged at the maximum frequency and maximum level identified in the application, provided:

- (a) They are not
  - (i) Designated as toxic or hazardous under the provisions of Sections 307 and 311, respectively, of the Federal Water Pollution Control Act; Title 38, Section 420, Maine Revised Statutes; or other applicable State Law; or
  - (ii) Known to be hazardous or toxic by the licensee.
- (b) The discharge of such materials will not violate applicable water quality standards.

**3. Duty to comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of State law and the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

- (a) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act, and 38 MRSA, §420 or Chapter 530.5 for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- (b) Any person who violates any provision of the laws administered by the Department, including without limitation, a violation of the terms of any order, rule license, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**4. Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

**5. Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

**6. Reopener clause.** The Department reserves the right to make appropriate revisions to this permit in order to establish any appropriate effluent limitations, schedule of compliance or other provisions which may be authorized under 38 MRSA, §414-A(5).

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**7. Oil and hazardous substances.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject under section 311 of the Federal Clean Water Act; section 106 of the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980; or 38 MRSA §§ 1301, et. seq.

**8. Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

**9. Confidentiality of records.** 38 MRSA §414(6) reads as follows. "Any records, reports or information obtained under this subchapter is available to the public, except that upon a showing satisfactory to the department by any person that any records, reports or information, or particular part or any record, report or information, other than the names and addresses of applicants, license applications, licenses, and effluent data, to which the department has access under this subchapter would, if made public, divulge methods or processes that are entitled to protection as trade secrets, these records, reports or information must be confidential and not available for public inspection or examination. Any records, reports or information may be disclosed to employees or authorized representatives of the State or the United States concerned with carrying out this subchapter or any applicable federal law, and to any party to a hearing held under this section on terms the commissioner may prescribe in order to protect these confidential records, reports and information, as long as this disclosure is material and relevant to any issue under consideration by the department."

**10. Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

**11. Other laws.** The issuance of this permit does not authorize any injury to persons or property or invasion of other property rights, nor does it relieve the permittee of its obligation to comply with other applicable Federal, State or local laws and regulations.

**12. Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the EPA Administrator), upon presentation of credentials and other documents as may be required by law, to:

- (a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

**B. OPERATION AND MAINTENANCE OF FACILITIES**

**1. General facility requirements.**

- (a) The permittee shall collect all waste flows designated by the Department as requiring treatment and discharge them into an approved waste treatment facility in such a manner as to

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- maximize removal of pollutants unless authorization to the contrary is obtained from the Department.
- (b) The permittee shall at all times maintain in good working order and operate at maximum efficiency all waste water collection, treatment and/or control facilities.
  - (c) All necessary waste treatment facilities will be installed and operational prior to the discharge of any wastewaters.
  - (d) Final plans and specifications must be submitted to the Department for review prior to the construction or modification of any treatment facilities.
  - (e) The permittee shall install flow measuring facilities of a design approved by the Department.
  - (f) The permittee must provide an outfall of a design approved by the Department which is placed in the receiving waters in such a manner that the maximum mixing and dispersion of the wastewaters will be achieved as rapidly as possible.

**2. Proper operation and maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

**3. Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**4. Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**5. Bypasses.**

- (a) Definitions.
  - (i) Bypass means the intentional diversion of waste streams from any portion of a treatment facility.
  - (ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c) Notice.
  - (i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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- (ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph D(1)(f), below. (24-hour notice).
- (d) Prohibition of bypass.
  - (i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:
    - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
    - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - (C) The permittee submitted notices as required under paragraph (c) of this section.
  - (ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (d)(i) of this section.

**6. Upsets.**

- (a) Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (c) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- (c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
  - (ii) The permitted facility was at the time being properly operated; and
  - (iii) The permittee submitted notice of the upset as required in paragraph D(1)(f) , below. (24 hour notice).
  - (iv) The permittee complied with any remedial measures required under paragraph B(4).
- (d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

STANDARD CONDITIONS APPLICABLE TO ALL PERMITS

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**C. MONITORING AND RECORDS**

**1. General Requirements.** This permit shall be subject to such monitoring requirements as may be reasonably required by the Department including the installation, use and maintenance of monitoring equipment or methods (including, where appropriate, biological monitoring methods). The permittee shall provide the Department with periodic reports on the proper Department reporting form of monitoring results obtained pursuant to the monitoring requirements contained herein.

**2. Representative sampling.** Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. If effluent limitations are based wholly or partially on quantities of a product processed, the permittee shall ensure samples are representative of times when production is taking place. Where discharge monitoring is required when production is less than 50%, the resulting data shall be reported as a daily measurement but not included in computation of averages, unless specifically authorized by the Department.

**3. Monitoring and records.**

- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- (b) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.
- (c) Records of monitoring information shall include:
  - (i) The date, exact place, and time of sampling or measurements;
  - (ii) The individual(s) who performed the sampling or measurements;
  - (iii) The date(s) analyses were performed;
  - (iv) The individual(s) who performed the analyses;
  - (v) The analytical techniques or methods used; and
  - (vi) The results of such analyses.
- (d) Monitoring results must be conducted according to test procedures approved under 40 CFR part 136, unless other test procedures have been specified in the permit.
- (e) State law provides that any person who tampers with or renders inaccurate any monitoring devices or method required by any provision of law, or any order, rule license, permit approval or decision is subject to the penalties set forth in 38 MRSA, §349.

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**D. REPORTING REQUIREMENTS**

**1. Reporting requirements.**

- (a) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
  - (i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); or
  - (ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Section D(4).
  - (iii) The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan;
- (b) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- (c) Transfers. This permit is not transferable to any person except upon application to and approval of the Department pursuant to 38 MRSA, § 344 and Chapters 2 and 522.
- (d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
  - (i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.
  - (ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.
  - (iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.
- (e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.
- (f) Twenty-four hour reporting.
  - (i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance

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has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit.

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (f)(ii) of this section if the oral report has been received within 24 hours.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this section.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**2. Signatory requirement.** All applications, reports, or information submitted to the Department shall be signed and certified as required by Chapter 521, Section 5 of the Department's rules. State law provides that any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained by any order, rule, permit, approval or decision of the Board or Commissioner is subject to the penalties set forth in 38 MRSA, §349.

**3. Availability of reports.** Except for data determined to be confidential under A(9), above, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by State law, effluent data shall not be considered confidential. Knowingly making any false statement on any such report may result in the imposition of criminal sanctions as provided by law.

**4. Existing manufacturing, commercial, mining, and silvicultural dischargers.** In addition to the reporting requirements under this Section, all existing manufacturing, commercial, mining, and silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

(a) That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(i) One hundred micrograms per liter (100 ug/l);

(ii) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(iii) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or

(iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

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- (b) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (i) Five hundred micrograms per liter (500 ug/l);
  - (ii) One milligram per liter (1 mg/l) for antimony;
  - (iii) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Chapter 521 Section 4(g)(7); or
  - (iv) The level established by the Department in accordance with Chapter 523 Section 5(f).

**5. Publicly owned treatment works.**

- (a) All POTWs must provide adequate notice to the Department of the following:
  - (i) Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of CWA or Chapter 528 if it were directly discharging those pollutants.
  - (ii) Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
  - (iii) For purposes of this paragraph, adequate notice shall include information on (A) the quality and quantity of effluent introduced into the POTW, and (B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.
- (b) When the effluent discharged by a POTW for a period of three consecutive months exceeds 80 percent of the permitted flow, the permittee shall submit to the Department a projection of loadings up to the time when the design capacity of the treatment facility will be reached, and a program for maintaining satisfactory treatment levels consistent with approved water quality management plans.

**E. OTHER REQUIREMENTS**

**1. Emergency action - power failure.** Within thirty days after the effective date of this permit, the permittee shall notify the Department of facilities and plans to be used in the event the primary source of power to its wastewater pumping and treatment facilities fails as follows.

- (a) For municipal sources. During power failure, all wastewaters which are normally treated shall receive a minimum of primary treatment and disinfection. Unless otherwise approved, alternate power supplies shall be provided for pumping stations and treatment facilities. Alternate power supplies shall be on-site generating units or an outside power source which is separate and independent from sources used for normal operation of the wastewater facilities.
- (b) For industrial and commercial sources. The permittee shall either maintain an alternative power source sufficient to operate the wastewater pumping and treatment facilities or halt, reduce or otherwise control production and or all discharges upon reduction or loss of power to the wastewater pumping or treatment facilities.

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**2. Spill prevention.** (applicable only to industrial sources) Within six months of the effective date of this permit, the permittee shall submit to the Department for review and approval, with or without conditions, a spill prevention plan. The plan shall delineate methods and measures to be taken to prevent and or contain any spills of pulp, chemicals, oils or other contaminants and shall specify means of disposal and or treatment to be used.

**3. Removed substances.** Solids, sludges trash rack cleanings, filter backwash, or other pollutants removed from or resulting from the treatment or control of waste waters shall be disposed of in a manner approved by the Department.

**4. Connection to municipal sewer.** (applicable only to industrial and commercial sources) All wastewaters designated by the Department as treatable in a municipal treatment system will be cosigned to that system when it is available. This permit will expire 90 days after the municipal treatment facility becomes available, unless this time is extended by the Department in writing.

**F. DEFINITIONS.** For the purposes of this permit, the following definitions shall apply. Other definitions applicable to this permit may be found in Chapters 520 through 529 of the Department's rules

**Average** means the arithmetic mean of values taken at the frequency required for each parameter over the specified period. For bacteria, the average shall be the geometric mean.

**Average monthly discharge limitation** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. Except, however, bacteriological tests may be calculated as a geometric mean.

**Average weekly discharge limitation** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Best management practices ("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.

**Composite sample** means a sample consisting of a minimum of eight grab samples collected at equal intervals during a 24 hour period (or a lesser period as specified in the section on monitoring and reporting) and combined proportional to the flow over that same time period.

**Continuous discharge** means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**Daily discharge** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

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**Discharge Monitoring Report ("DMR")** means the EPA uniform national form, including any subsequent additions, revisions, or modifications for the reporting of self-monitoring results by permittees. DMRs must be used by approved States as well as by EPA. EPA will supply DMRs to any approved State upon request. The EPA national forms may be modified to substitute the State Agency name, address, logo, and other similar information, as appropriate, in place of EPA's.

**Flow weighted composite sample** means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

**Grab sample** means an individual sample collected in a period of less than 15 minutes.

**Interference** means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

**Maximum daily discharge limitation** means the highest allowable daily discharge.

**New source** means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) After promulgation of standards of performance under section 306 of CWA which are applicable to such source, or
- (b) After proposal of standards of performance in accordance with section 306 of CWA which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal.

**Pass through** means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

**Permit** means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 CFR parts 122, 123 and 124. Permit includes an NPDES general permit (Chapter 529). Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

**Person** means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency or other legal entity.

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**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.

**Pollutant** means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or byproducts, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

**Process wastewater** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

**Publicly owned treatment works ("POTW")** means any facility for the treatment of pollutants owned by the State or any political subdivision thereof, any municipality, district, quasi-municipal corporation or other public entity.

**Septage** means, for the purposes of this permit, any waste, refuse, effluent sludge or other material removed from a septic tank, cesspool, vault privy or similar source which concentrates wastes or to which chemicals have been added. Septage does not include wastes from a holding tank.

**Time weighted composite** means a composite sample consisting of a mixture of equal volume aliquots collected over a constant time interval.

**Toxic pollutant** includes any pollutant listed as toxic under section 307(a)(1) or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing section 405(d) of the CWA. Toxic pollutant also includes those substances or combination of substances, including disease causing agents, which after discharge or upon exposure, ingestion, inhalation or assimilation into any organism, including humans either directly through the environment or indirectly through ingestion through food chains, will, on the basis of information available to the board either alone or in combination with other substances already in the receiving waters or the discharge, cause death, disease, abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in such organism or their offspring.

**Wetlands** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Whole effluent toxicity** means the aggregate toxic effect of an effluent measured directly by a toxicity test.



# DEP INFORMATION SHEET

## Appeals to the Board of Environmental Protection

Date: November 2024

Contact: [Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov) or  
(207) 314-1458

### SUMMARY

This document provides information regarding a person's rights and obligations in filing an administrative or judicial appeal of: (1) a final license decision made by the Commissioner of the Department of Environmental Protection ("DEP"); or (2) an insurance claim-related decision ("Clean-up and Response Fund decision") made by the Commissioner or the Office of State Fire Marshal pursuant to [38 M.R.S. § 568-A](#).

Except as explained below, there are two methods available to an aggrieved person seeking to appeal a license decision made by the Commissioner or a Clean-up and Response Fund decision: (1) an administrative appeal before the Board of Environmental Protection ("Board"); or (2) a judicial appeal before Maine's Superior Court. An aggrieved person seeking review of a license decision or Clean-up and Response Fund decision made by the Board may seek judicial review in Maine's Superior Court.

An appeal of a license decision made by the DEP Commissioner or the Board regarding an application for an expedited wind energy development ([35-A M.R.S. § 3451\(4\)](#)), a general permit for an offshore wind energy demonstration project ([38 M.R.S. § 480-HH\(1\)](#)), or a general permit for a tidal energy demonstration project ([38 M.R.S. § 636-A](#)) must be taken to the Supreme Judicial Court sitting as the Law Court.

### **I. ADMINISTRATIVE APPEALS TO THE BOARD**

#### **LEGAL REFERENCES**

A person filing an appeal with the Board should review the applicable rules and statutes, including the DEP's Chapter 2 rule, [Processing of Applications and Other Administrative Matters \(06-096 C.M.R. ch. 2\)](#); Organization and Powers, [38 M.R.S. §§ 341-D\(4\)](#) and [346](#); and the Maine Administrative Procedure Act, 5 M.R.S. § [11001](#).

#### **DEADLINE TO SUBMIT AN APPEAL TO THE BOARD**

Within 30 calendar days of the date of: (1) a final license decision of the Commissioner; or (2) a Clean-up and Response Fund decision, an aggrieved person may appeal to the Board for review of that decision. "Aggrieved person" means any person whom the Board determines may suffer a particularized injury as a result of a Commissioner's license decision or a Clean-up and Response Fund decision. A complete appeal must be received by the Board no later than 5:00 p.m. on the 30<sup>th</sup> calendar day of the decision being appealed. With limited exception, untimely appeals will be dismissed.

#### **HOW TO SUBMIT AN APPEAL TO THE BOARD**

An appeal to the Board may be submitted via postal mail or electronic mail (e-mail) and must contain all signatures and required appeal contents. An electronic filing must contain the scanned original signature of the appellant(s). The appeal documents must be sent to the following address.

Chair, Board of Environmental Protection  
c/o Board Clerk  
17 State House Station  
Augusta, ME 04333-0017  
[Clerk.BEP@maine.gov](mailto:Clerk.BEP@maine.gov)

The DEP may also request the submittal of the original signed paper appeal documents when the appeal is filed electronically. The risk of material not being received in a timely manner is on the sender, regardless of the method used.

At the time an appeal is filed with the Board, the appellant must send a copy of the appeal to: (1) the Commissioner of the DEP (Maine Department of Environmental Protection, 17 State House Station, Augusta, Maine 04333-0017); (2) the licensee, if the appellant is not the licensee; and (3) if a hearing was held on the application, any intervenors in that hearing proceeding. For appeals of Clean-up and Response Fund decisions made by the State Fire Marshal, the appellant must also send a copy of the appeal to the State Fire Marshal. **Please contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or DEP staff at 207-287-7688 with questions or for contact information regarding a specific license or Clean-up and Response Fund decision.**

#### **REQUIRED APPEAL CONTENTS**

A written appeal must contain the information specified in Chapter 2, section 23(B) or section 24(B), as applicable, at the time the appeal is submitted. **Please carefully review these sections of Chapter 2**, which is available online at <https://www.maine.gov/sos/cec/rules/06/chaps06.htm>, or contact the Board Clerk to obtain a copy of the rule. Failure to comply with the content of appeal requirements may result in the appeal being dismissed pursuant to Chapter 2, section 23(C) or section 24(C).

#### **OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD**

1. *Be familiar with the administrative record.* Generally, the record on which the Board decides an appeal is limited to the record prepared by the agency in its review of the application, any supplemental evidence admitted to the record by the Board Chair and, if a hearing is held on the appeal, additional evidence admitted during the hearing. A person who seeks to appeal a decision to the Board is encouraged to contact the DEP (or State Fire Marshal for Clean-up and Response Fund decisions made by that agency) to inspect the record before filing an appeal.
2. *Be familiar with the applicable rules and laws.* An appellant is required to identify the licensing criterion or standard the appellant believes was not satisfied in issuing the decision, the bases of the objections or challenges, and the remedy sought. Prior to filing an appeal, review the decision being appealed to identify the rules and laws that are applicable to the decision. An appellant may contact the DEP or Board staff with any questions regarding the applicable rules and laws or the appeal procedure generally.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed, the license normally remains in effect pending the processing of the appeal. Unless a separate stay of the decision is requested and granted (*see* Chapter 2, section 23(M)), the licensee may proceed with an approved project pending the outcome of the appeal. Any activity initiated in accordance with the approved license during the pendency of the appeal comes with the risk of not knowing the outcome of the appeal, including the possibility that the decision may be reversed or modified by the Board.
4. *Alternative dispute resolution.* If the appeal participants agree to use mediation or another form of alternative dispute resolution (“ADR”) to resolve the appeal and so notify the Board, the Board will not hear the matter until the conclusion of that effort, provided the participants engaged in the alternative dispute resolution demonstrate satisfactory progress toward resolving the issues. *See* Chapter 2, section 23(H) or contact the Board Executive Analyst (contact information below) for more information on the ADR provision.

### **WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD**

The Board will acknowledge receipt of each appeal and develop a service list of appeal participants and any interested persons for use in the appeal proceeding. Electronic mail (e-mail) is the preferred method of communication during an appeal proceeding; however, the Board reserves the right to require paper copies of all filings. Once the Board Chair rules on the admissibility of all proposed supplemental evidence, the licensee (if the licensee is not the appellant) may respond to the merits of the appeal. Instructions specific to each appeal will be provided in correspondence from the Board Executive Analyst or Board Chair. Generally, once all filings in an appeal proceeding are complete, the DEP staff will assemble a packet of materials for the Board (Board packet), including a staff recommendation in the form of a proposed Board Order. Once available, appeal participants will receive a copy of the Board packet and an agenda with the meeting location and start time. Once finalized, the meeting agenda will be posted on the Board's webpage <https://www.maine.gov/dep/bep/index.html>. Appeals will be considered based on the administrative record on appeal and oral argument at a regular meeting of the Board. *See* Chapter 2, Section 23(I). The Board may affirm all or part of the decision under appeal; affirm all or part of the decision under appeal with modifications, or new or additional conditions; order a hearing to be held as expeditiously as possible; reverse the decision under appeal; or remand the decision to the Commissioner or State Fire Marshal, as applicable, for further proceedings.

### **II. JUDICIAL APPEALS**

The filing of an appeal with the Board is not a prerequisite for the filing of a judicial appeal. Maine law generally allows aggrieved persons to appeal final license decisions to Maine's Superior Court (*see* [38 M.R.S. § 346\(1\)](#); [Chapter 2](#); [5 M.R.S. § 11001](#); and [M.R. Civ. P. 80C](#)). A judicial appeal by a party to the underlying proceeding must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other aggrieved person, an appeal must be filed within 40 days of the date the decision was rendered. An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. *See* 38 M.R.S. § 346(4), the Maine Administrative Procedure Act, statutes governing a particular license decision, and the Maine Rules of Civil Procedure for substantive and procedural details applicable to judicial appeals.

### **ADDITIONAL INFORMATION**

If you have questions or need additional information on the appeal procedure, for administrative appeals contact the Board Clerk at [clerk.bep@maine.gov](mailto:clerk.bep@maine.gov) or 207-287-2811 or the Board Executive Analyst at [bill.hinkel@maine.gov](mailto:bill.hinkel@maine.gov) or 207-314-1458, or for judicial appeals contact the court clerk's office in which the appeal will be filed.

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**Note: This information sheet, in conjunction with a review of the statutory and rule provisions referred to herein, is provided to help a person to understand their rights and obligations in filing an administrative or judicial appeal, and to comply with notice requirements of the Maine Administrative Procedure Act, 5 M.R.S. § 9061. This information sheet is not intended to supplant the parties' obligations to review and comply with all statutes and rules applicable to an appeal and insofar as there is any inconsistency between the information in this document and the applicable statutes and rules, the relevant statutes and rules apply.**

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