

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

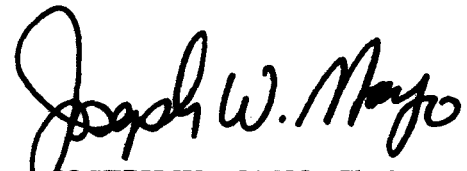
No. 1743

H.P. 1268

House of Representatives, January 30, 1996

**An Act to Establish Consistency between Federal and State Drinking
Water Laws.**

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative ETNIER of Harpswell.
Cosponsored by Representatives: DAVIDSON of Brunswick, FITZPATRICK of Durham,
TRUE of Fryeburg.

Be it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 22 MRSA §2613, sub-§1**, as amended by PL 1979, c. 541,
Pt. B, §28, is further amended to read:

6 **1. Variances.** The commissioner may grant one or more
7 variances from an applicable state primary ~~water~~ drinking water
8 regulation to a public water system, if the variance will not
result in an unreasonable risk to the public health, and if:

10 A. Because of the characteristics of the raw water sources
12 reasonably available to the systems, the system ~~cannot~~ can
14 not meet the maximum contaminant levels of such the drinking
water regulation despite application of the best ~~feasible~~
16 technology, treatment techniques or other means; or

18 B. Where a specified treatment technique for a ~~contaminate~~
contaminant is required by the state primary ~~water~~ drinking
20 water regulation, the system demonstrates to the
commissioner's satisfaction that such the treatment
22 technique is not required to protect the public health
because of the nature of the raw water source.

24 Prior to granting a variance, the commissioner shall provide an
26 opportunity for public hearing pursuant to the Maine
Administrative Procedure Act on the proposed variance. Variances
28 may be conditioned on monitoring, testing, analyzing or other
requirements to ~~insure~~ ensure the protection of the public
30 health; and variances granted under paragraph A, ~~shall~~ must
include a compliance schedule under which the public water system
32 will meet each contaminant level for which a variance is granted
as expeditiously as is feasible.

34 **Sec. 2. 22 MRSA §2613, sub-§2**, as amended by PL 1979, c. 541,
Pt. B, §29, is further amended to read:

36 **2. Exemptions.** The commissioner may grant one or more
38 exemptions from an applicable state primary ~~water~~ drinking water
regulation to a public water system, if:

40 A. The exemption will not result in an unreasonable risk to
42 the public health;

44 B. The public water system is unable to comply with the
regulation due to compelling factors, which may include
46 economic factors; and

48 C. The public water system was in operation on the earliest
effective date under present or prior law of the contaminant
50 level or treatment technique requirement.

2 Prior to implementation of a schedule for compliance with
3 contaminant level or treatment technique requirements and for
4 implementation of control measures, the commissioner shall
5 provide notice and opportunity for public hearing pursuant to the
6 requirements of the Maine Administrative Procedure Act. Each
7 exemption shall must also be conditioned on monitoring, testing,
8 analyzing or other requirements to ~~insure~~ ensure the protection
9 of the public health, and shall must include a compliance
10 schedule under which the public water system will meet each
11 contaminant level for which an exemption is granted as
12 expeditiously as is feasible ~~and in any event not later than 7~~
13 ~~years after the adoption of the state primary drinking regulation.~~

14 Sec. 3. 22 MRSA §2613, sub-§4 is enacted to read:

16 4. Exemption; extended. The exemption is effective for up
17 to one year after the date of the issuance of the exemption.

20 A. The final date for compliance provided in any schedule
21 in an exemption may be extended for a period not to exceed 3
22 years after the date of the issuance of the exemption if:

24 (1) The public water system can not meet the standards
25 without capital improvements that can not be completed
26 within the period of the exemption;

28 (2) In the case of a public water system that needs
29 financial assistance for the necessary improvements,
30 the system has entered into an agreement to obtain
31 financial assistance; or

32 (3) The public water system has entered into an
33 enforceable agreement to become part of a regional
34 public water system and the system is taking
35 practicable steps to meet the standards.

38 B. In the case of a system that does not serve more than
39 500 service connections and that needs financial assistance
40 for the necessary improvements, an exemption granted may be
41 renewed for one or more additional 2-year periods if the
42 system establishes that it is taking all practicable steps
43 to meet the requirements established in the exemption.

44 Sec. 4. 22 MRSA §2614, sub-§3 is enacted to read:

46 3. Boil-water order. For the purposes of this section and
47 section 2615, "boil-water order" means an order issued by the
48 Department of Human Services to protect the health of persons
49 consuming water from a public water system that may be
50 contaminated by pathogenic microorganisms.

2 The commissioner may adopt rules for issuing a boil-water order.
4 A boil-water order may be issued by the commissioner for a
6 violation that the commissioner considers a serious risk to
8 public health or for a situation that may have an adverse impact
10 on the health of the users. A boil-water order is considered
12 issued under this section and is exempt from the procedural
14 requirements for issuance under this section. Rather, the
16 commissioner shall adopt separate procedures for issuing
18 boil-water orders.

20 **Sec. 5. 22 MRSA §2615, sub-§1**, as enacted by PL 1975, c. 751,
22 §4 is repealed and the following enacted in its place:

24 **1. Notification.** As soon as practicable but in no event
26 later than the schedule established in this subsection, a public
28 water system shall notify the local health officer; the
30 department and, through the department, the Administrator of the
32 United States Environmental Protection Agency; the users; and the
34 communications media serving the area served by the system of the
36 nature, extent and possible health effects if the system:

A. Is not in compliance with the state primary drinking
water regulations;

B. Fails to perform monitoring, testing or analyzing or
fails to provide samples as required by rules and
regulations of the department;

C. Is subject to a variance granted under section 2613;

D. Is subject to an exemption granted under section 2613; or

E. Is not in compliance with the requirements prescribed by
a variance or exemption.

The commissioner shall adopt rules that further prescribe the
form, manner and frequency for giving notice under this section.

40 **Sec. 6. 22 MRSA §2615, sub-§1-A** is enacted to read:

42 **1-A. Notice; frequency and procedures.** The supplier of
44 water shall complete public notification at least in accordance
46 with the following frequency and in accordance with procedures
48 outlined further by rule.

A. Notice for a boil-water order must be completed within
24 hours of the issuance.

B. Notice of any violation of a maximum contaminant level

2 or any other violation designated by the commissioner as
3 posing a serious potential adverse health effect must be
4 given as soon as possible, but in no case later than 14 days
5 after the violation except:

6 (1) Violations that are covered by paragraph A; or

8 (2) Acute violations that may include, but are not
9 limited to, treatment technique violations and maximum
10 contaminant level violations in which notification is
11 required within 72 hours of the identification of the
12 violation as established by rule.

14 C. Notice of a continuous violation of a regulation other
15 than a maximum contaminant level must be given at least
16 every 3 months; and

18 D. Notice of violations judged to be less serious must be
19 given at least annually.

20 As long as the noncompliance, failure, variance or exemption
21 continues, notification must be given of that fact at least once
22 every 90 days and as further adopted by rule as to form, manner
23 and frequency.

25 STATEMENT OF FACT

30 The purpose of this bill is to make the state drinking water
31 laws consistent with the federal Safe Drinking Water Act as
32 required to maintain primacy.

34 The bill also proposes changes to the public notification
35 section at the Maine Revised Statutes, Title 22, section 2615 to
36 ensure the drinking water program's ability to enforce the
37 current Federal Public Notification Rule as adopted into the
38 program's rules by reference.

40 Further, the bill proposes changes to the emergency powers
41 of the drinking water program to initiate action under the Maine
42 Revised Statutes, Title 22, section 2613. The drinking water
43 program currently has adopted by rule procedures for the issuance
44 of boil-water orders under section 2614.

46 The bill establishes procedures for the issuance of
boil-water orders.