

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

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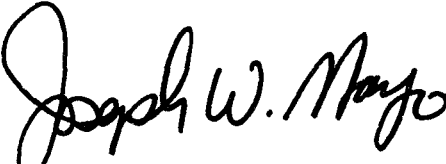
H.P. 1862

House of Representatives, March 1, 2000

An Act to Improve Public Water Supply Protection.

Reported by Representative MARTIN for the Joint Standing Committee on Natural Resources pursuant to Joint Order H.P. 1841.

Reference to the Joint Standing Committee on Natural Resources suggested and printing ordered under Joint Rule 218.


JOSEPH W. MAYO, Clerk

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

4 **Sec. 1. 4 MRSA §152, sub-§6-A, ¶¶E and F,** as enacted by PL
1989, c. 878, Pt. A, §7, are amended to read:

6 E. Laws pertaining to public water supplies, Title 22 ~~38~~,
sections ~~2642~~ 2512, ~~2647~~ 2513 and ~~2648~~ 2514;

8 F. Local ordinances enacted under Title 22 ~~38~~, section ~~2642~~
10 2512, and in accordance with Title 30-A, section 3001;

12 **Sec. 2. 5 MRSA §12004-A, sub-§46,** as enacted by PL 1995, c.
14 442, §1, is amended to read:

16 **46.** Board of Expenses Only ~~22-MRSA-§2624-A~~
Licensure of Water 38 MRSA §2494
18 Treatment Plant Operators

20 **Sec. 3. 5 MRSA §12004-G, sub-§13-B,** as enacted by PL 1991, c.
455, Pt. A, §1, is amended to read:

22 **13-B.** Maine Water \$50 Per 32 MRSA
Environment/ Well Drilling Meeting §4700-G
24 Health Commission Plus Expenses
Engineering
26 Natural
Resources

28 **Sec. 4. 5 MRSA §12004-I, sub-§22-D** is enacted to read:

30 **22-D.** Maine Public Expenses 38 MRSA
32 Environment Drinking Only §2532
Water
34 Commission

36 **Sec. 5. 5 MRSA §12004-I, sub-§47-C,** as enacted by PL 1995, c.
462, Pt. A, §10, is repealed.

38 **Sec. 6. 12 MRSA §7035, sub-§1, ¶B,** as amended by PL 1993, c.
40 265, §1, is further amended to read:

42 B. A municipality or political subdivision of the State may
44 not enact any ordinance, law or rule regulating the hunting,
trapping or fishing for any species of fish or wildlife; the
46 operation, registration or numbering of watercraft or
snowmobiles; or any other subject matter of chapter 715,
subchapters I and II. For purposes of this paragraph,
48 except as provided in subparagraphs (3) and (4), the
regulation of fishing includes the regulation of ice fishing

shacks. Nothing in this paragraph may be construed to prohibit the following:

(1) The enactment of any ordinance generally regulating the discharge of firearms in a municipality or any part of a municipality;

(2) The adoption of rules as authorized in section 7792;

(3) The enactment of any ordinance regulating ice fishing shacks on sources of public water supply as provided under Title 22 38, section ~~2642~~ 2512; or

(4) The enactment of any ordinance regulating ice fishing shacks on coastal waters as defined in section 6001, subsection 6.

Sec. 7. 17 MRSA §2267-A, sub-§2, as enacted by PL 1981, c. 578, is amended to read:

2. Notice of submerged vehicle to be given to department.

The owner of any motor vehicle which becomes submerged or partially submerged in the waters of the State, shall immediately, by the fastest means of communication, notify the Commissioner of Inland Fisheries and Wildlife of the event and the location of the vehicle.

The commissioner shall, upon receiving notice of a submerged or partially submerged vehicle, notify the Chief of the State Police, the Commissioner of Environmental Protection and any municipality or public utility which regulates the uses of the waters as a source of public water supply pursuant to Title 22 38, sections ~~2641~~ 2511 to ~~2648~~ 2514.

Sec. 8. 22 MRSA §2602, as enacted by PL 1975, c. 751, §4, is amended to read:

§2602. Fees for testing

The department shall charge the average cost of the analysis for any examination, testing or analysis required under this chapter and Title 38, chapter 32 and performed in the departmental diagnostic laboratory. Such fees shall must be recalculated and deposited according to section ~~562~~ 568.

Sec. 9. 22 MRSA §2604, as enacted by PL 1975, c. 751, §4, is repealed.

2 **Sec. 10. 22 MRSA §2604-A**, as enacted by PL 1997, c. 45, §2,
is repealed.

4 **Sec. 11. 22 MRSA §2606**, as enacted by PL 1975, c. 751 §4, is
repealed.

6 **Sec. 12. 22 MRSA §2608**, as enacted by PL 1983, c. 837, §2, is
8 repealed.

10 **Sec. 13. 22 MRSA §2611**, as amended by PL 1977, c. 694, §364,
is further amended to read:

12 **§2611. Drinking water rules**

14 **1. State primary drinking water rules.** The commissioner
16 shall promulgate ~~adopt~~ and enforce primary drinking water
regulations-which rules that are necessary to protect the public
18 health and ~~which-shall~~ that apply to all public water systems.
Such-regulations-shall-include These rules must:

20 A. ~~Identification~~ Include identification of contaminants
22 which that may have an adverse effect on the health of
persons;

24 B. ~~Specifies~~ Specify for each contaminant either:

26 (1) A maximum contaminant level that is acceptable in
28 water for human consumption, if it is feasible to
ascertain the level of such contaminant in water in
30 public water systems; or

32 (2) One or more treatment techniques or methods which
34 that lead to a reduction of the level of such
contaminant sufficient to protect the public health, if
it is not feasible to ascertain the level of such
36 contaminant in water in the public water system; and

38 C. ~~Criteria~~ Include criteria and procedures to assure
39 ensure compliance with the levels or methods determined
40 under paragraph B, including quality control and testing
42 procedures to ~~insure~~ ensure compliance with such those
levels or methods and to ~~insure~~ ensure proper operation and
44 maintenance of the system, and requirements as to the
minimum quality of water which that may be taken into the
system and the siting for new facilities.

46 Such-regulations-shall Rules adopted pursuant to this subsection
48 may not be no less stringent than the most recent National
Primary Drinking Water Regulations in effect, as issued or
50 promulgated by the United States Environmental Protection Agency.

2 ~~Regulations~~ Rules adopted under this subsection may be amended
from time to time, as necessary.

4 **2. State secondary drinking water rules or guidelines.** The
commissioner shall adopt secondary drinking water ~~regulations~~
6 rules or guidelines which ~~that~~ are necessary to protect the
public welfare. ~~Such-regulations~~ These rules or guidelines may
8 apply to any contaminant in drinking water which ~~that~~ may
adversely affect the color, odor or appearance of the water and
10 consequently may cause a substantial number of persons to
discontinue using a public water system, or which ~~that~~ may
12 otherwise adversely affect the public welfare. ~~Such-regulations~~
These rules or guidelines may vary according to geographic,
14 economic, technical or other relevant circumstances. ~~Such~~
~~regulations~~ These rules or guidelines shall ~~must~~ reasonably
16 assure the protection of the public welfare and the supply of
aesthetically adequate drinking water; and shall ~~must~~ be based
18 upon the National Secondary Drinking Water Regulations
promulgated by the United States Environmental Protection Agency.
20 ~~Regulations~~ Rules or guidelines under this subsection may be
amended from time to time, as necessary.

22 **Sec. 14. 22 MRSA §2612**, as enacted by PL 1975, c. 751, §4, is
24 repealed.

26 **Sec. 15. 22 MRSA §2612-A**, as enacted by PL 1997, c. 705, §2,
is repealed.

28 **Sec. 16. 22 MRSA §2613**, as amended by PL 1997, c. 705, §§3 to
30 8, is repealed.

32 **Sec. 17. 22 MRSA §2614**, as amended by PL 1995, c. 622, §4, is
repealed.

34 **Sec. 18. 22 MRSA §2615**, as amended by PL 1995, c. 622, §§5
36 and 6, is repealed.

38 **Sec. 19. 22 MRSA §2615-A**, as enacted by PL 1999, c. 77, §1,
is repealed.

40 **Sec. 20. 22 MRSA §2616**, as enacted by PL 1975, c. 751, §4, is
42 repealed.

44 **Sec. 21. 22 MRSA §2617**, as corrected by RR 1993, c. 2, §13,
is repealed.

46 **Sec. 22. 22 MRSA c. 601, sub-cc. II-A, III and IV**, as amended, are
48 repealed.

2 **Sec. 23. 22 MRSA §2651-B**, as enacted by PL 1983, c. 463, §2,
is amended to read:

4 **§2651-B. Fluoridation**

6 No public water system may add any fluoride to its water
supply without written approval of the department and the
8 Department of Environmental Protection.

10 **Sec. 24. 22 MRSA c. 601, sub-cc. VI and VII**, as amended, are
repealed.

12 **Sec. 25. 30-A MRSA §2001, sub-§§14-B and 20-A** are enacted to
14 read:

16 14-B. Public drinking water supplier. "Public drinking
water supplier" means a public water supplier as defined by the
18 federal Safe Drinking Water Act that provides drinking water from
a source water protection area.

20 20-A. Source water protection area. "Source water
22 protection area" means an area that contributes recharge water to
a surface water intake or public water supply well for a public
24 drinking water supply. In order to qualify as a source water
26 protection area, the area must be identified and mapped by the
Maine Drinking Water Program established in Title 38, section
28 2463 and that information must be given to the municipality in
which the source water protection area is located.

30 **Sec. 26. 30-A MRSA §3754**, as amended by PL 1993, c. 173, §4,
is further amended to read:

32 **§3754. Hearings**

34 Municipal officers or county commissioners, as provided for
36 in section 3753, shall hold a public hearing before granting a
permit to establish, operate or maintain an automobile graveyard,
38 automobile recycling business or junkyard. They shall post a
notice of the hearing at least 7 and not more than 14 days before
40 the hearing in at least 2 public places in the municipality or
unorganized territory and publish a notice in one newspaper
42 having general circulation in the municipality or unorganized
territory in which the automobile graveyard, automobile recycling
44 business or junkyard is to be located. The municipal officers or
county commissioners shall give written notice of the application
46 to the Department of Transportation by mailing a copy of the
application at least 7 and not more than 14 days before the
48 hearing. The municipal officers or county commissioners shall
give written notice of the application to a public water supplier
50 for any automobile graveyard, automobile recycling business or
junkyard located within its source water supply area. The notice

2 may be given by mailing a copy of the application at least 7 and
3 not more than 14 days before the hearing.

4 **Sec. 27. 30-A MRSA §4211, sub-§3, ¶B**, as enacted by PL 1987,
5 c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6;
6 c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to
7 read:

8
9 B. No person may expand a structure using a subsurface
10 waste water disposal system until documentation is provided
11 to the municipal officers and a notice of the documentation
12 is recorded in the appropriate registry of deeds that, in
13 the event of a future malfunction of the system, the
14 disposal system can be replaced and enlarged to comply with
15 the rules adopted under Title 22, section 42, and any
16 municipal ordinances governing subsurface waste water
17 disposal systems. No requirement of these rules and
18 ordinances may be waived for an expanded structure.

19 (1) The department shall prescribe the form of the
20 notice to be recorded in the registry of deeds. The
21 notice shall must include a site plan showing:

22
23 (a) The exact location of the replacement system;

24 (b) The approximate location of lot lines; and

25 (c) The exact location of existing wells serving
26 the lot on which the replacement system will be
27 located and those located on abutting lots.

28
29 (2) The person seeking to expand a structure shall
30 send copies of the notice by certified mail, return
31 receipt requested, to all owners of abutting lots and
32 to a public drinking water supplier if the lot with the
33 structure that is being expanded is within its source
34 water protection area.

35
36 (3) After the notice required by this paragraph is
37 recorded, no abutting landowner may install a well on
38 that landowner's property in a location which would
39 prevent the installation of the replacement septic
40 system. The owner of the lot on which the replacement
41 system will be installed may not erect any structure on
42 the proposed site of the replacement system or conduct
43 any other activity which would prevent the use of the
44 designated site for the replacement system.

45
46 **Sec. 28. 30-A MRSA §4352, sub-§8**, as amended by PL 1997, c.
47 36, §1, is further amended to read:
48

2 **8. Conditional and contract rezoning.** A zoning ordinance
may include provisions for conditional or contract zoning. All
4 rezoning under this subsection must:

6 A. Be consistent with the local growth management program
adopted under this chapter;

8
10 B. Establish rezoned areas that are consistent with the
existing and permitted uses within the original zones; and

12 C. Only include conditions and restrictions that relate to
the physical development or operation of the property.

14
16 The municipal reviewing authority shall conduct a public hearing
before any property is rezoned under this subsection. Notice of
this hearing must be posted in the municipal office at least 13
18 days before the public hearing. Notice must also be published at
least 2 times in a newspaper having general circulation in the
20 municipality. The date of the first publication must be at least
7 days before the hearing. Notice must also be sent to the owner
22 or owners of the property to be rezoned and to the owners of all
property abutting the property to be rezoned at the owners' last
24 known addresses. Notice also must be sent to a public drinking
water supplier if the area to be rezoned is within its source
26 water protection area. This notice must contain a copy of the
proposed conditions and restrictions with a map indicating the
28 property to be rezoned.

30 **Sec. 29. 30-A MRSA §4352, sub-§9, ¶E** is enacted to read:

32 E. Notice must be sent by regular mail to a public drinking
water supplier if the area to be rezoned contains its source
34 water protection area.

36 **Sec. 30. 30-A MRSA §4352, sub-§10, ¶B**, as amended by PL 1997,
c. 36, §3, is further amended to read:

38
40 B. For each parcel within the municipality that is in or
abutting the portion of the municipality affected by the
proposed amendment, the notice must be mailed by first class
42 mail at least 13 days before the public hearing to the last
known address of the person to whom property tax on each
44 parcel is assessed. Notice also must be sent to a public
drinking water supplier if the area to be rezoned is within
46 its source water protection area. The municipal officers
shall prepare and file with the municipal clerk a written
48 certificate indicating those persons to whom the notice was
mailed and at what addresses, when it was mailed, by whom it
50 was mailed and from what location it was mailed. This

2 certificate constitutes prima facie evidence that notice was
sent to those persons named in the certificate. Notice is
4 not required under this paragraph for any type of zoning
ordinance adopted under the laws governing growth management
6 contained in chapter 187, subchapter II or the laws
governing shoreland zoning contained in Title 38, chapter 3,
subchapter I, article 2-B.

8
10 **Sec. 31. 30-A MRSA §4358-A** is enacted to read:

12 **§4358-A. Source water protection area**

14 A municipality must notify a public drinking water supplier
if a proposed land use project:

16 1. Source water protection area. Is within its source
water protection area; and

18 2. Reviewed; abutters notified. Is reviewed by a municipal
20 reviewing authority and, as part of that review, the municipality
notifies abutters.

22 Notice may be sent by regular mail and with the same advance
24 notice requirements afforded abutters.

26 **Sec. 32. 30-A MRSA §4403, sub-§3, ¶A**, as enacted by PL 1989,
c. 104, Pt. A, §45 and Pt. C, §10 and amended by c. 497, §5, is
28 further amended to read:

30 A. When an application is received, the municipal reviewing
authority shall give a dated receipt to the applicant and
32 shall notify by mail all abutting property owners of the
proposed subdivision, and the clerk and the reviewing
34 authority of municipalities that abut or include any portion
of the subdivision, specifying the location of the proposed
36 subdivision and including a general description of the
project. The municipal reviewing authority shall notify by
38 mail a public drinking water supplier if the subdivision is
within its source water protection area.

40 **Sec. 33. 30-A MRSA §4452, sub-§5, ¶¶B and C**, as enacted by PL
42 1989, c. 104, Pt. A, §45 and Pt. C, §10, are amended to read:

44 B. Laws pertaining to public water supplies, Title 22 38,
sections 2642 2512, 2647 2513 and 2648 2514;

46
48 C. Local ordinances adopted pursuant to Title 22 38,
section 2642 2513;

2 **Sec. 34. 30-A MRSA §6006-B, sub-§1, ¶C**, as repealed and
replaced by PL 1997, c. 705, §16, is amended to read:

4 C. For the purposes of this section, the term "public water
system" is the same as defined in Title 22 38, section 2601
6 2461, subsection 8 15 and "community water system" and
"noncommunity water system" are the same as defined in Title
8 22 38, section 2660-B 2461, subsections 6 and 11,
respectively.

10
12 **Sec. 35. 32 MRSA §4700-E, sub-§3**, as enacted by PL 1991, c.
455, Pt. B, §1, is amended to read:

14 **3. Department.** "Department" means the Department of Human
16 Services Environmental Protection.

18 **Sec. 36. 32 MRSA §4700-G, sub-§2**, as amended by PL 1993, c.
25, §7 and PL 1995, c. 502, Pt. E, §32, is further amended to
20 read:

22 **2. Membership.** The commission consists of the ~~Director of~~
~~the Division of Health Engineering within the Department of Human~~
24 Services Commissioner of Environmental Protection or the
~~director's~~ commissioner's designee; the Director of the Natural
26 Resources Information and Mapping Center or the director's
designee; the Commissioner of Transportation or the
28 commissioner's designee; and 4 public members, 3 of whom must be
well drillers. One well driller must be a geotechnical driller.

30
32 **Sec. 37. 38 MRSA §548, last ¶**, as enacted by PL 1993, c. 621,
§1, is amended to read:

34 For purposes of this section, "viable community public water
system" means a community water system as defined in Title 22 38,
36 section 2660-B 2461 that has not indicated an intent to
imminently cease providing water to that location.

38 **Sec. 38. 38 MRSA c. 32** is enacted to read:

40 **CHAPTER 32**

42 **PUBLIC WATER SUPPLY PROTECTION**

44 **SUBCHAPTER I**

46 **GENERAL PROVISIONS**

48 **§2461. Definitions**

2 As used in this chapter, unless the context otherwise
3 indicates, the following words have the following meanings.

4 1. Administrative compliance order. "Administrative
5 compliance order" means an administrative order that is issued by
6 the commissioner against a public water system in violation of
7 state primary drinking water rules.

8
9
10 2. Administrative consent order. "Administrative consent
11 order" means an order issued by the commissioner pursuant to a
12 bilateral agreement between the commissioner and a public water
13 system in violation of state primary drinking water rules.

14 3. Administrative penalty. "Administrative penalty" means
15 a fine imposed by the commissioner against a public water system
16 in violation of state primary drinking water rules.

17 4. Administrative remedy. "Administrative remedy" means an
18 administrative compliance order, an administrative consent order
19 or an administrative penalty.

20
21 5. Boil-water order. "Boil-water order" means an order
22 issued by the commissioner to protect the health of persons
23 consuming water from a public water system that may be
24 contaminated by pathogenic microorganisms.

25
26 6. Community water system. "Community water system" means
27 a public water system that serves at least 15 service connections
28 used by year-round residents or regularly serves at least 25
29 year-round residents.

30
31 7. Contaminant. "Contaminant" means any physical,
32 chemical, biological or radiological substance or matter in water.

33
34 8. Feasible. "Feasible" means capable of being done within
35 the current limitation of economics and technology, as determined
36 by the commissioner.

37
38 9. Maximum contaminant level. "Maximum contaminant level"
39 means the maximum concentration of a contaminant allowed under
40 the state primary drinking water rules in water supplied for
41 human consumption.

42
43 10. National Drinking Water Regulations. "National
44 Drinking Water Regulations" means the drinking water regulations
45 promulgated by the Administrator of the United States
46 Environmental Protection Agency under the authority of the
47 federal Safe Drinking Water Act, Public Law 93-523 and its
48 amendments.

2 11. Noncommunity water system. "Noncommunity water system"
means a public water system that is not a community water
4 system. A noncommunity water system is either nontransient or
transient, as follows.

6 A. A nontransient, noncommunity water system serves at
8 least 25 of the same persons for 6 months or more per year
and may include, but is not limited to, a school, factory,
10 industrial park or office building.

12 B. A transient, noncommunity water system serves at least 25
14 persons, but not necessarily the same persons, for at least
16 60 days per year and may include, but is not limited to, a
highway rest stop, seasonal restaurant, seasonal motel, golf
18 course, park or campground. A bottled water company is a
transient, noncommunity water system.

20 12. Notice of noncompliance. "Notice of noncompliance"
means a formal written complaint or a notice of violation of
22 state drinking water laws or rules.

24 13. Operator. "Operator" means the individual who has
direct management responsibility for the routine supervision and
26 operation of a public water system or of a water treatment plant
or collection, treatment, storage or distribution facility or
28 structure that is a part of a system. Shift operators or other
employees under the supervision of the operator in the
30 performance of their duties are not operators.

32 14. Political subdivision. "Political subdivision" means
any municipality, county, district or any portion or combination
34 of 2 or more thereof.

36 15. Public water system. "Public water system" means any
publicly or privately owned system of pipes or other constructed
38 conveyances, structures and facilities through which water is
obtained for or sold, furnished or distributed to the public for
40 human consumption if such a system has at least 15 service
connections, regularly serves an average of at least 25
42 individuals daily at least 60 days out of the year or bottles
water for sale. A publicly or privately owned system that only
44 stores and distributes water without treating or collecting it;
obtains all its water from, but is not owned or operated by, a
46 public water system; and does not sell water or bottled water to
any person is not a "public water system." The term "public water
48 system" includes any collection, treatment, storage or
distribution pipes or other constructed conveyances, structures
50 or facilities under the control of the supplier of water and used
primarily in connection with such a system, and any collection or

2 pretreatment storage facilities not under that control that are
3 used primarily in connection with such a system. The system does
4 not include the portion of service pipe owned and maintained by a
5 customer of the public water system.

6 For purposes of this subsection, a connection to a system that
7 delivers water by a constructed conveyance other than a pipe is
8 not considered a connection if:

10 A. The water is used exclusively for purposes other than
11 residential uses. For the purposes of this subsection, the
12 term "residential uses" includes drinking, bathing, cooking
13 and other similar uses; and

14 B. The commissioner determines that alternative water to
15 achieve the equivalent level of public health protection
16 provided by the applicable state primary drinking water rule
17 is provided for residential or similar uses; or

18 C. The commissioner determines that the water provided for
19 residential or similar uses is centrally treated or treated
20 at the point of entry by the provider, a pass-through entity
21 or the user to achieve the equivalent level of protection
22 provided by the applicable state primary drinking water rule.

23 16. Roadside spring. "Roadside spring" means any spring,
24 well or other water diverted by pipes for the public to obtain
25 water by using containers or other methods, including but not
26 limited to water being diverted and collected by a landowner by
27 tiles, pipes, catch basins, buildings or other appurtenances.

28 17. State primary drinking water rules. "State primary
29 drinking water rules" means those rules adopted pursuant to Title
30 22, section 2611, subsection 1.

31 18. Supplier of water. "Supplier of water" means any
32 person who controls, owns or generally manages a public water
33 system.

34 19. Violation. "Violation" means noncompliance with state
35 drinking water laws and rules regardless of whether that
36 noncompliance is intentional, negligent or otherwise.

37 20. Water treatment plant. "Water treatment plant" means
38 that portion of the public water system that is designed to alter
39 the physical, chemical, biological or radiological quality of the
40 water or to remove any contaminants.

41 **§2462. Scope**

42

2 This chapter establishes a system designed to help ensure
3 public health; to allow the State, municipalities and public
4 water systems to identify significant public water supplies and
5 strive for a higher degree of protection around source water
6 areas, or areas that are used as public drinking water supplies;
7 and allow the State, municipalities and water systems to pursue
8 watershed or wellhead protection activities around significant
9 public water supplies.

10 **§2463. Administration**

12 To carry out this chapter, the commissioner may:

14 1. **Agreements.** Enter into agreements, contracts or
15 cooperative arrangements under such terms and conditions as the
16 commissioner considers appropriate with other state, federal or
17 interstate agencies, municipalities, education institutions,
18 local health departments or other organizations or individuals;

20 2. **Assistance.** Receive financial and technical assistance
21 from the Federal Government and other public or private agencies;

22 3. **Program participation.** Participate in related programs
23 of the Federal Government, other states, interstate agencies or
24 other public agencies or organizations;

25 4. **Fiscal control and accounting.** Establish adequate
26 fiscal controls and accounting procedures to ensure proper
27 disbursement of and accounting for funds;

28 5. **Procedures.** Adopt and implement adequate procedures to
29 ensure compliance with this chapter and rules adopted pursuant to
30 it, including procedures for the monitoring and inspection of
31 public water systems;

32 6. **Advising other agencies.** Advise other regulatory
33 agencies of the department's regulations and orders adopted under
34 this chapter; and

35 7. **Establish program.** Establish the Maine Drinking Water
36 Program to ensure compliance with this chapter and the rules
37 adopted pursuant to it.

38 Except as otherwise specifically provided by law, the
39 commissioner may impose no standard, method or procedure upon any
40 water utility, as defined in Title 35-A, section 102, that is
41 more stringent than required under the federal Safe Drinking
42 Water Act, as amended, or regulations promulgated under that Act
43 by the Administrator of the United States Environmental
44 Protection Agency, unless the particular standard, method or
45 procedure is more stringent than that of the United States
46 Environmental Protection Agency.

2 procedure has been adopted in a rule adopted according to the
3 Maine Administrative Procedure Act and the rule specifies in
4 detail the scientific basis justifying the more stringent
5 standard, method or procedure and the precise criteria for when
6 the standard, method or procedure applies to a water utility.

8 **§2464. Emergency planning**

10 The department shall develop plans, with the advice and
11 assistance of the Department of Defense, Veterans and Emergency
12 Management, Maine Emergency Management Agency and of the public
13 water systems of the State, for emergency conditions and
14 situations that may endanger the public health or welfare by
15 contamination of drinking water. These plans must include
16 potential sources of contaminants and situations or conditions
17 that could place them in the sources of public drinking water,
18 techniques and methods to be used by public water systems to
19 reduce or eliminate the dangers to public health caused thereby,
20 methods and times for analysis or testing during any emergency
21 conditions or situations, alternate sources of water available to
22 public water systems and methods of supplying drinking water to
23 consumers if a public water system can not supply drinking water.

24 **§2465. Information on private water supply contamination;**
25 **interagency cooperation**

26 **1. Information on private water supply contamination.** The
27 department shall provide information and consultation to citizens
28 who:

29 **A. Make reports of potential contamination of private water**
30 **supplies; and**

31 **B. Request information on potential groundwater**
32 **contamination at or near the site of a private water supply.**

33 **2. Interagency cooperation.** The department shall
34 coordinate with the Department of Human Services to:

35 **A. Assess the public health implications of reports or**
36 **requests made by citizens pursuant to subsection 1; and**

37 **B. Determine the appropriate response to those reports or**
38 **requests, including, but not limited to, on-site**
39 **investigation, well water testing and groundwater monitoring.**

40 **3. Cooperation with local health officer.** The department
41 and the Department of Human Services, to the extent feasible,
42 shall notify and utilize the services of local health officers in
43 the following circumstances:

2 collecting and evaluating information relating to actual or
3 potential groundwater contamination.

4 **§2466. Roadside springs**

6 A roadside spring is not a public water system if the owner
7 of the roadside spring does not collect, charge or accept
8 donations, fees or money for the water or for testing or
9 maintenance of the water and does not post signs or construct
10 other structures that invite persons to use the spring.

12 **§2467. Schools; sampling and examination of water**

14 Any school that takes water from a source other than a
15 public water system and uses that water for drinking or culinary
16 purposes must submit samples of that water to the Department of
17 Human Services for analysis at least once during each school
18 year. The results of these samples must be submitted to the
19 department. If a water sample violates the state primary
20 drinking water rules, the department must issue an order
21 prohibiting the use of the water for drinking or culinary
22 purposes by the school. This order remains in force until the
23 water conforms to the state primary drinking water rules.

24 Violation of this section, on conviction, is punishable by a
25 fine of not more than \$500.

28 **SUBCHAPTER II**

30 **SAFE DRINKING WATER**

32 **§2471. Approval of construction or alteration; training;**
33 **inspection; regulations and records**

34 **1. Construction or alteration of public water systems.** New
35 construction, additions or alterations involving the source,
36 treatment or storage of water in any public water system may not
37 be commenced until the plans and specifications have been
38 submitted to and approved by the department.

39 A. The commissioner may exempt from submission and approval
40 the construction, additions or alterations if it will have
41 no effect on public health or welfare.

42 B. The department must consult with and advise persons
43 planning or operating a public water system as to the most
44 appropriate source of supply and the best methods of
45 assuring its purity. The department must consider any
46 existing threats in the vicinity of the proposed source of
47 supply when reviewing whether to approve a new source of
48 supply.

2 supply and may deny approval based on those existing
3 threats.

4 C. In granting approval of plans and specifications, the
5 department may require modifications, conditions or
6 procedures to ensure, as far as feasible, the protection of
7 the public health. The department may adopt and enforce
8 rules governing the construction or alteration of public
9 water systems to ensure the protection of the public health
10 and may require the submission of water samples for analysis
11 to determine the extent of treatment required.

12 D. Records of construction, including, where feasible,
13 plans and descriptions of existing public water systems,
14 must be maintained by public water systems and made promptly
15 available to the department upon request.

16 2. Operation and maintenance of public water systems. The
17 department shall monitor the operation and maintenance of any
18 public water system in the State. This monitoring must include
19 all aspects of operation and maintenance that may affect the
20 quality of the water supply. The department may adopt rules
21 relating to operation and maintenance of public water systems to
22 ensure the purity of water and the protection of public health,
23 which may apply to all aspects of operation and maintenance that
24 may affect the quality of water supplied to the public, including
25 feasible purification methods, equipment and systems. The
26 department may require by rule any public water system to submit
27 water samples for analysis on a regular basis, as often as
28 necessary to ensure the public health. Records of operation and
29 maintenance of public water systems must be kept on forms
30 approved or specified by the department. These data must be
31 submitted to the department at the times and in the manner as the
32 department directs. The supplier of water shall promptly comply
33 with all departmental directions.

34 3. Inspection. Any officer or employee duly designated by
35 the commissioner, upon presenting appropriate credentials and a
36 written notice of the authority to inspect, signed by the
37 commissioner, is authorized to enter any part of a public water
38 system to determine whether that supplier is complying with this
39 chapter and any departmental rules or orders issued under this
40 chapter. The inspection may include any portion of a public water
41 system, including the sources of supply, treatment facilities and
42 materials, pumping facilities, distribution and storage
43 facilities, records, files and reports on operation. The
44 inspection may also include the testing of any portion of a
45 public water system affecting water quality, including raw and
46 processed water, and the taking of any samples necessary to
47 ensure compliance with this chapter and the rules, regulations or
48 orders of the department.

2 orders issued under this chapter. Each inspection must take place
3 at a reasonable time and be completed with reasonable promptness.
4 The supplier must be promptly notified of the results of the
5 inspection.

6 4. Engineering studies. The commissioner may order a
7 public water supplier to carry out an engineering study of the
8 water works system or any portion of that system, if that study
9 is required to identify potential threats to the public health
10 and remedies that will remove those threats. The purpose of this
11 study is to ascertain the best methods of complying with this
12 chapter and departmental rules. The department may order a public
13 water system to implement the feasible recommendations of the
14 study required to protect the public health. Prior to issuing any
15 order under this subsection, the commissioner shall provide
16 written notice to the public water system and public notice in a
17 newspaper of general circulation in the area served by the public
18 water system and provide the opportunity for a public hearing on
19 the proposed order.

20 5. Cross connections. The department may adopt and enforce
21 rules governing the connection of any public water system to any
22 pipes, facilities or structures that carry, store or distribute
23 water that has not been analyzed for compliance or can not comply
24 with the state primary drinking water rules, or any connection
25 that may introduce contamination into the system, in order to
26 protect the system from contamination.

27 6. Training. The department may provide training in
28 operations and maintenance of public water systems, techniques
29 and methods of testing and analysis of water, and the
30 requirements of this chapter and departmental rules for suppliers
31 of water and operators and employees of public water systems.

32 §2472. Capacity development

33 1. Authority. The commissioner is authorized to ensure
34 that all new community water systems and new nontransient,
35 noncommunity systems commencing operation after October 1, 1999
36 demonstrate technical, managerial and financial capacity for each
37 state primary drinking water rule in effect, or likely to be in
38 effect, on the date of commencement of operations.

39 2. Rulemaking. The commissioner shall adopt rules to
40 enforce this section. Rules adopted pursuant to this section are
41 routine technical rules as defined in Title 5, chapter 375,
42 subchapter II-A.

43 §2473. Variances and exemptions

1 1. Variances. The commissioner may grant one or more
2 variances from an applicable state primary drinking water rule to
3 a public water system if the variance will not result in an
4 unreasonable risk to the public health and if:

6 A. Because of the characteristics of the raw water sources
7 reasonably available to the system, the system is at or
8 exceeds one or more of the maximum contaminant levels
9 despite application of the best technology, treatment
10 techniques or other means; or

12 B. When a specified treatment technique for a contaminant
13 is required by the state primary drinking water rule, the
14 system demonstrates to the commissioner's satisfaction that
15 the treatment technique is not required to protect the
16 public health because of the nature of the raw water source.

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

28 A variance may be issued to a system on the condition that the
29 system install the best technology, treatment techniques or other
30 means that are available, taking costs into consideration,
31 according to the United States Environmental Protection Agency
32 and based upon an evaluation satisfactory to the commissioner
33 that indicates that alternative sources of water are not
34 reasonably available to the system.

36 2. Small system variances. The commissioner may grant a
37 variance for compliance with a requirement specifying a maximum
38 contaminant level or treatment technique contained in a state
39 primary drinking water rule to public water systems serving 3,300
40 or fewer persons. With the approval of the Administrator of the
41 United States Environmental Protection Agency, the commissioner
42 may grant a variance under this subsection to a public water
43 system serving more than 3,300 persons but fewer than 10,000
44 persons.

46 The commissioner shall adopt rules for variances to be granted
47 under this subsection. Rules adopted pursuant to this subsection
48 are routine technical rules as defined in Title 5, chapter 375,
49 subchapter II-A.

2 3. Exemption for water distillers in retail stores. A
3 retail store that distills and bottles water from a public water
4 system and sells the water on the premises is exempt from state
5 primary drinking water rules except:

6 A. The distiller must be inspected annually by the
7 Department of Agriculture, Food and Rural Resources; and

8
9 B. A bacteriological sample of the distilled water must be
10 submitted to the Department of Human Services at least every
11 3 months and the results forwarded to the department. If
12 the distiller has a one-year history of no coliform bacteria
13 contamination, the department may reduce the frequency of
14 sampling to one sample per year.

15 4. Exemptions. The commissioner may grant one or more
16 exemptions from an applicable state primary drinking water rule
17 to a public water system if:

18
19 A. The exemption will not result in an unreasonable risk to
20 the public health;

21
22 B. The public water system is unable to comply with the
23 rule or to implement measures to develop an alternative
24 source of water supply due to compelling factors, which may
25 include economic factors such as qualification of the public
26 water system serving a disadvantaged community. For
27 purposes of this paragraph, "disadvantaged community" means
28 the service area of a public water system that meets
29 affordability criteria established by the department after
30 public review and comment;

31
32 C. The public water system was in operation on the earliest
33 effective date under present or prior law of the contaminant
34 level or treatment technique requirement; and

35
36 D. Management or restructuring changes can not reasonably
37 be made that will result in compliance with this chapter or,
38 if compliance can not be achieved, improve the quality of
39 the drinking water.

40
41 Prior to implementation of a schedule for compliance with
42 contaminant level or treatment technique requirements and for
43 implementation of control measures, the commissioner shall
44 provide notice and opportunity for public hearing pursuant to the
45 requirements of the Maine Administrative Procedure Act. Each
46 exemption must also be conditioned on monitoring, testing,
47 analyzing or other requirements to ensure the protection of the
48 public health and must include a compliance schedule, including
49 increments of progress or measures to develop an alternative
50 source of water supply.

2 source of water supply, under which the public water system will
3 meet each contaminant level for which an exemption is granted as
4 expeditiously as is feasible.

5 **5. Exemption criteria.** An exemption described in
6 subsection 4 may not be granted unless:

8 A. The public water system can not meet the standards
9 without capital improvements that can not be completed
10 within the period of the exemption;

12 B. In the case of a public water system that needs
13 financial assistance for the necessary improvements, the
14 system has entered into an agreement to obtain such
15 financial assistance or assistance pursuant to the safe
16 drinking water revolving loan fund established under Title
17 30-A, section 6006-B or any other federal or state program
18 that is reasonably likely to be available within the period
19 of the exemption; or

20 C. The public water system has entered into an enforceable
21 agreement to become part of a regional public water system
22 and the system is taking practicable steps to meet the
23 standards.

24 **6. Exemption; extended.** The exemption described in
25 subsection 4 is effective for up to one year after the date of
26 the issuance of the exemption.

27 A. The final date for compliance provided in any schedule
28 in an exemption may be extended for a period not to exceed 3
29 years after the date of the issuance of the exemption.

30 B. In the case of a system that does not serve more than
31 3,300 people and that needs financial assistance for the
32 necessary improvements, an exemption granted may be renewed
33 for one to 3 additional 2-year periods, but may not exceed a
34 total of 6 additional years, if the system establishes that
35 it is taking all practicable steps to meet the requirements
36 established in the exemption.

37 A public water system may not receive an exemption under
38 this section if the system was granted a variance under
39 subsection 2.

40 **§2474. Imminent hazards to public health**

41 **1. Determination of imminent hazard.** An imminent hazard is
42 considered to exist when there is a violation of the state
43 primary drinking water rules or when, in the judgment of the
44 state, there is a violation of the state primary drinking water
45 rules.

2 commissioner, a condition exists in a public water system or
3 water supply that will cause a violation and result in a serious
4 risk to public health.

5 **2. Elimination of imminent hazard.** In order to eliminate
6 an imminent hazard, the commissioner may, without a prior
7 hearing, issue an emergency order requiring the supplier of water
8 to immediately take such action as is required under the
9 circumstances to protect the public health. Actions required
10 under the emergency order may include:

11 A. The prohibition of transportation, sale, distribution or
12 supplying of water;

13 B. The feasible repair, installation or operation of
14 purification equipment or methods;

15 C. The notification of all potential users of the system,
16 including travelers, of the nature, extent and possible
17 health effects of the imminent hazard and precautions to be
18 taken by users; or

19 D. The testing, sampling or other analytical operations
20 required to determine the nature, extent, duration or
21 termination of the imminent hazard.

22 A copy of the emergency order must be served in the same manner
23 as the service of notice of the commencement of a civil action in
24 Superior Court. An emergency order issued by the commissioner is
25 effective immediately and is binding for no more than 90 days
26 unless sooner revoked, reviewed by the department at a public
27 hearing or modified or rescinded by Superior Court. At the
28 written request of the supplier of water, a public hearing must
29 be held on the emergency order within 15 days of receipt of a
30 request.

31 **3. Boil-water order.** A boil-water order may immediately
32 require the supplier of water to complete public notification of
33 the threat to public health pursuant to section 2475.

34 A boil-water order may be issued when, in the judgment of the
35 commissioner, a threat to the public health may exist from the
36 presence of pathogenic microorganisms in a public water system.
37 A boil-water order may be issued without a prior public hearing
38 and served on the supplier of water by personal service,
39 certified mail or by any other method if receipt is acknowledged
40 by the supplier of water. At the written request of a supplier
41 of water, a public hearing must be held on the boil-water order
42 within 15 days of the receipt of the request.

2 **§2475. Notification of noncompliance to regulatory agencies and**
3 **users**

4 **1. Notification.** A public water system shall notify the
5 public of the nature and extent of possible health effects as
6 soon as practicable, but not later than the time periods
7 established under subsection 4, if the system:

8
9 **A. Is not in compliance with a state primary drinking water**
10 **rule;**

11 **B. Fails to perform monitoring, testing or analyzing or**
12 **fails to provide samples as required by departmental rules;**

13 **C. Is subject to a variance or an exemption granted under**
14 **section 2473; or**

15 **D. Is not in compliance with the terms of a variance or an**
16 **exemption granted under section 2473.**

17
18
19 **Public notification under this section must be provided**
20 **concurrently to the system's local health officer and to the**
21 **department. When required by law, the department shall forward a**
22 **copy of the notification to the Administrator of the United**
23 **States Environmental Protection Agency. The department may**
24 **require notification to a public water system's individual**
25 **customers by mail delivery or by hand delivery within a**
26 **reasonable time, but not earlier than required under federal laws.**
27

28
29 **2. Certain uses of notification prohibited.** Notification
30 received pursuant to this section or information obtained by the
31 exploitation of that notification may not be used against any
32 person or system providing notification in any criminal case,
33 except for prosecutions for perjury or giving a false statement.
34

35 **3. Form of notification.** In addition to the notification
36 required under subsection 1, a public water system must provide
37 public notification by furnishing a copy of the information
38 required under subsection 1 in accordance with this subsection.
39 A public water system that provides notification via newspaper or
40 media may voluntarily provide notification to its customers via
41 mail or hand delivery. Notification must be provided:

42
43 **A. To a daily newspaper or the communications media**
44 **covering the territory served by the system; or**

45 **B. When the territory served by a public water system is**
46 **not covered by a daily newspaper or communications media, or**
47 **when a public water system is a nontransient, noncommunity**
48 **system, directly to its customers via hand delivery or**
49

2 through continuous posting in conspicuous places reasonably
3 calculated to reach the customers within the territory
4 served by the system.

5 4. Timing of notification. A public water system shall
6 provide public notification pursuant to subsection 3 on a
7 notification schedule as follows:

8
9 A. When a boil-water order is properly issued to a public
10 water system under section 2474, subsection 3, within 24
11 hours;

12
13 B. When a violation of a maximum contaminant level does not
14 result in an acute risk to public health, when a treatment
15 technique is required or when a schedule is contained within
16 a variance or an exemption, within 14 days;

17
18 C. When a violation of a maximum contaminant level results
19 in an acute risk to public health, within 72 hours of the
20 identification of the violation;

21
22 D. For minor monitoring violations, as defined by the
23 commissioner by rule, at least once annually;

24
25 E. For monitoring violations, other than for minor
26 monitoring violations, within 90 days of the identification
27 of the violation and at least once annually; and

28
29 F. For ongoing violations, once notification for a
30 violation under this section has been provided, notification
31 by mail delivery or by hand delivery at least once every 3
32 months for as long as the violation continues.

33
34 5. Rulemaking. The commissioner shall adopt rules
35 establishing the procedures for the provision of public
36 notification as required to comply with state and federal laws.
37 Rules adopted pursuant to this section are routine technical
38 rules as defined in Title 5, chapter 375, subchapter II-A.

39 §2476. Consumer confidence reports

40
41 1. Annual reports to customers. Each community water
42 system shall prepare and provide to each customer of the system a
43 consumer confidence report at least once annually. This report
44 must include, but is not limited to:

45
46 A. The source of drinking water and potential contamination
47 sources;
48

2 B. The level of detected regulated contaminants and
detected unregulated contaminants for which monitoring is
4 required by the department;

6 C. The health risks associated with detected contaminants;

8 D. The status and notice of public input in the renewal of
variances or exemptions;

10 E. The nature of applicable compliance violations,
12 including remedial action; and

14 F. Access to additional information from the community
water system and the United States Environmental Protection
16 Agency's safe drinking water hotline.

18 2. Reports to department. Each community water system
shall provide the department a copy of the consumer confidence
20 report and a signed certification that the report is accurate and
was delivered to each customer of the system.

22 3. Delivery to customers. Each community water system
24 shall mail a copy of the consumer confidence report to each
customer of the system. The Governor may waive the mailing
26 requirement for community water systems serving fewer than 10,000
persons and require those systems to publish the consumer
28 confidence report in a newspaper of general circulation to inform
customers that the report will not be mailed and to make the
30 report available upon request. If the Governor waives the
mailing requirement for systems serving fewer than 10,000
32 persons, community water systems serving 500 or fewer persons
have the option of posting the consumer confidence report in an
34 appropriate public location.

36 Each community water system serving 100,000 or more persons shall
also post its current year's report to a publicly accessible site
38 on the Internet.

40 4. Rulemaking. The commissioner shall adopt rules
establishing the requirements for the form, content and delivery
42 of consumer confidence reports under this section. Rules adopted
pursuant to this subsection are routine technical rules as
44 defined in Title 5, chapter 375, subchapter II-A.

46 **§2477. Prohibited acts**

48 The following acts are prohibited:

50 1. Failure to comply with section 2475 or dissemination of
certain misleading information. Failure by a supplier of water

2 to comply with the requirements of section 2475 or dissemination
4 by a supplier of any false or misleading information about
remedial actions being undertaken to achieve compliance with
state primary drinking water rules;

6 2. Failure to comply with rules and actions pursuant to
8 sections 2471, 2473 and 2474 or Title 22, section 2611. Failure
by a supplier of water to comply with the rules for water
10 quality, monitoring, maintenance, operations, reporting and
corrective actions pursuant to sections 2471, 2473 and 2474 and
12 Title 22, section 2611; and

14 3. Refusal to allow entry pursuant to section 2471. The
refusal of a supplier of water to allow entry and inspection of
16 establishments, facilities or other property pursuant to section
2471.

18 **§2478. Penalties and remedies**

20 1. Violation of section 2477 or 2534. A person that
22 violates section 2477 or 2534 commits a civil violation for which
a penalty not to exceed \$5,000 may be adjudged. Each day of
24 operation in violation of section 2477 or 2534 constitutes a
separate violation. The District Court or the Superior Court has
26 jurisdiction over violations of section 2477 or 2534.

28 2. Injunctive relief. The commissioner may commence or
cause to be instituted a civil action in the Superior Court of
30 either Kennebec County or of the county in which the principal
place of business of the supplier of water is located, to convict
32 and punish a person under subsection 1, to seek injunctive relief
to prevent the violation of any rule issued pursuant to this
34 chapter, to prevent the violation of any order issued pursuant to
section 2471, 2473 or 2474, or to require a public water system
36 or supplier of water to take other action necessary to protect
the public health, with or without a prior order from the
38 commissioner or department.

40 3. Administrative remedies. The commissioner may seek and
impose administrative remedies as provided in subchapter III for
42 a violation of state drinking water laws and rules.

44 **SUBCHAPTER III**

46 **SAFE DRINKING WATER ADMINISTRATIVE ENFORCEMENT**

48 **§2481. General authorization**

50 In accordance with the process outlined in section 2482, the
commissioner may impose one or more of the administrative

2 remedies provided in this subchapter when a violation of this
4 chapter or rules adopted pursuant to this chapter occurs or if
6 the commissioner determines that administrative remedies are
8 necessary and appropriate to ensure compliance with state
10 drinking water laws and rules.

12 **§2482. Administrative remedy process**

14 **1. Notice of noncompliance.** Except as otherwise provided
16 in this subchapter, the commissioner shall issue a notice of
18 noncompliance to a public water system within 30 days after the
20 commissioner has determined that the public water system has
22 committed a violation. The notice of noncompliance must contain
24 the following information:

26 A. Identification of the violation;

28 B. A compliance deadline; and

30 C. The possible consequences of noncompliance if the
32 requirements of the notice are not met by the specified date.

34 **2. Administrative consent order.** If the public water
36 system has failed to correct the violation as specified in the
38 notice of noncompliance by the date specified in the notice, the
40 commissioner and the public water system shall make a good faith
42 effort to agree upon a settlement and, if agreement is reached,
44 the commissioner shall issue an administrative consent order. An
46 administrative consent order may not be changed without written
48 consent by all parties to the agreement. An administrative
consent order must include, but is not limited to, compliance
schedules and milestones. If the public water system and the
commissioner fail to reach an agreement, the commissioner may
issue an administrative compliance order under subsection 3 or
may refer the case to the Attorney General for relief under
section 2478.

3. Administrative compliance order. If the public water
system and the commissioner fail to reach an agreement under
subsection 2, the commissioner may issue an administrative
compliance order to the public water system to correct the
violation in a manner and within a time frame that the
commissioner determines appropriate. The administrative
compliance order must contain a schedule that the public water
system must follow to bring it into compliance. An
administrative compliance order may include an administrative
penalty that takes effect as early as the day that the parties
ceased negotiating in good faith under subsection 2. The
administrative compliance order must specify an administrative

2 penalty that takes effect if the public water system fails to
3 comply with the administrative compliance order.

4 4. Administrative penalty. If the public water system and
5 the commissioner fail to reach an agreement under subsection 2,
6 the commissioner may impose an administrative penalty that takes
7 effect as early as the day that the parties ceased negotiating in
8 good faith under subsection 2. If the public water system fails
9 to comply with an administrative compliance order by the deadline
10 in the compliance schedule, an administrative penalty may be
11 assessed. A notice of penalty assessment may be issued in
12 conjunction with or separate from an administrative compliance
13 order, and must contain:

14 A. Identification of the violation for which it is issued;

15 B. A citation of the law, rule or order being violated;

16 C. The amount of the penalty;

17 D. Notice of the right to an adjudicatory hearing pursuant
18 to the Maine Administrative Procedure Act; and

19 E. The procedure for paying the penalty.

20 **§2483. Provisions governing administrative penalties**

21 Administrative penalties imposed under this subchapter are
22 governed by this section.

23 1. Maximum penalty. An administrative penalty may not be
24 greater than \$750 for each violation, except that for public
25 water systems serving more than 10,000 people, an administrative
26 penalty may not be less than \$1,000 for each violation. Each day
27 that a violation remains uncorrected may be counted as a separate
28 violation.

29 2. Schedule of penalties. The commissioner shall adopt
30 routine technical rules in accordance with Title 5, chapter 375,
31 subchapter II-A establishing a schedule of administrative
32 penalties. Factors that may be considered include but are not
33 limited to:

34 A. The nature and duration of the violation;

35 B. The level of assessment necessary to ensure immediate
36 and continued compliance;

37 C. Whether steps were taken by the public water system to
38 prevent the violation;

- 2 D. Whether steps were taken by the public water system to
3 remediate or mitigate damage resulting from the violation;
4
5 E. Whether the public water system has a history of
6 violations;
7
8 F. The financial condition of the public water system;
9
10 G. Whether or not compliance is less costly than committing
11 the violation;
12
13 H. Deterrence of future noncompliance; and
14
15 I. The best interest of the public.

16
17 3. Payment of penalty. Administrative penalties must be
18 paid within 30 days of the issuance of notice of administrative
19 penalty or, if appealed, within 30 days of the appeal decision.
20 The commissioner shall deposit administrative penalties received
21 into the Public Drinking Water Fund established in section 2535.

22
23 4. Enforcement. Further prosecution of a person who fails
24 to pay the full penalty imposed pursuant to this chapter must be
25 referred to the Attorney General for appropriate action. A
26 person who fails to pay the full penalty imposed pursuant to this
27 chapter is liable for all fines and penalties allowed under this
28 subchapter and all costs, interest and fees incurred by the
29 State, including attorney's fees.

30
31 §2484. Appeals

32
33 Appeal of actions authorized under this section is governed
34 by the following.

35
36 1. Due process generally. The commissioner shall comply
37 with the Maine Administrative Procedure Act when imposing
38 administrative penalties and issuing administrative compliance
39 orders. A public water system against which an administrative
40 penalty is assessed or an administrative compliance order is
41 issued has a right to a hearing as provided under the Maine
42 Administrative Procedure Act. The decision of a hearing officer
43 is a final agency action subject to review in the Superior Court,
44 as provided in Title 5, chapter 375, subchapter VII.

45
46 2. Effect on penalties. A public water system has 30 days
47 from the date an administrative penalty is issued against it to
48 pay the full amount of the penalty or to file a request for a
49 hearing with the commissioner. If the public water system waives
50 the right to or fails to request a hearing within 30 days, the

2 administrative penalty is considered final. If a request for a
3 hearing is filed within the 30 days, the following provisions
4 apply.

5 A. Violations or penalties do not accrue from the date that
6 the public water system files the request for a hearing to
7 the date the hearing officer renders a decision.

8 B. Notwithstanding paragraph A, if the hearing officer
9 finds that the appeal is frivolous, the violations or
10 penalties accrue throughout the appeal period.

11 C. If an administrative hearing is held and a penalty is
12 assessed at the conclusion of that hearing, the penalty
13 becomes final 30 days after the decision.

14 **§2485. Exception**

15 Notwithstanding section 2482, if a violation poses a serious
16 risk to public health, the commissioner may issue an
17 administrative compliance order immediately without having issued
18 a notice of noncompliance or having attempted to negotiate an
19 administrative consent order.

20 **§2486. Rules**

21 The commissioner shall adopt rules establishing procedures
22 regarding notice and the issuance, amendment and withdrawal of
23 administrative compliance orders and administrative consent
24 orders.

25 The commissioner may adopt rules establishing a permitting
26 process for public water systems. Rules adopted pursuant to this
27 section are major substantive rules as defined in Title 5,
28 chapter 375, subchapter II-A.

29 **SUBCHAPTER IV**

30 **LICENSURE OF OPERATORS**

31 **§2491. Definitions**

32 As used in this subchapter, unless the context otherwise
33 indicates, the following words have the following meanings.

34 1. Board. "Board" means the Board of Licensure of Water
35 Treatment Plant Operators established in section 2494.

36 2. License. "License" means a license issued by the Board
37 of Licensure of Water Treatment Plant Operators stating that the
38

2 applicant has met the requirements for the specified operator
3 classification.

4 **§2492. Classification of public water systems and parts of system**

6 The board, with the advice of the department, shall classify
7 all public water systems and the water treatment plants or
8 collection, treatment or storage facilities or structures that
9 are part of a system taking into account the size and type of
10 facilities, the character of water to be treated and any other
11 physical conditions affecting that system or part. The board
12 shall specify the qualifications the operator of the system or of
13 the part of a system must have to supervise successfully the
14 operation of the system or part to protect the public health or
15 prevent nuisance conditions.

16 The board, with the advice of the department, shall
17 establish the criteria and conditions for the classification of
18 public water systems, water treatment plants, collection
19 facilities, treatment facilities, storage facilities and
20 structures that are part of these systems.

21 The commissioner, with the advice of the board, may
22 establish classes of public water supply systems that do not
23 require licensed individuals as operators.

24 **§2493. Applicability**

25 It is unlawful for any person to perform the duties of an
26 operator, as defined in section 2461, subsection 13, without
27 being licensed under this subchapter, except as provided in
28 section 2501.

29 **§2494. Board of Licensure of Water Treatment Plant Operators**

30 The Board of Licensure of Water Treatment Plant Operators is
31 established within the department pursuant to Title 5, section
32 12004-A, subsection 46.

33 **1. Membership; general qualifications.** The board consists
34 of 7 members appointed by the Governor as follows: 3 water
35 system or water treatment operators, each holding a different
36 class of license from the top 3 categories of licenses; one
37 member who is a registered professional engineer employed by a
38 water utility; one person who is an educator in the field of
39 water supply or service; one person who is a water utility
40 management representative; and one person from the department, as
41 the commissioner may recommend.

2 2. Terms. Except as provided in this subsection, each
3 member of the board is appointed for a 3-year term. The
4 appointee from the department serves at the pleasure of the
5 Governor. The commissioner may recommend to the Governor at any
6 time that the appointee from the department be replaced.
7 Vacancies must be filled by appointment of the Governor for all
8 unexpired terms.

9 3. Chair; secretary. Members of the board shall elect from
10 among the members a chair at the first meeting of each year.
11 Members shall also elect from among the members a secretary who
12 is responsible for maintaining records and providing
13 administrative support.

14 4. Call of meetings. Meetings of the board may be called
15 by the chair or by the chair at the request of any 2 other
16 members as necessary to carry out this chapter.

17 5. Conduct of meetings. A majority of the members of the
18 board constitutes a quorum for the purpose of conducting the
19 business of the board and exercising all the powers of the
20 board. A vote of the majority of members present is sufficient
21 for all actions of the board.

22 6. Powers and duties. The powers and duties of the board
23 are as follows.

24 A. The board shall license persons to serve as operators.

25 B. The board shall design and hold at least one examination
26 each year to examine candidates for licensure.

27 C. The board may enter into contracts to carry out its
28 responsibilities under this section.

29 7. Fund. The Board of Licensure of Water Treatment Plant
30 Operators Fund, referred to in this subsection as the "fund," is
31 established and is governed by the following provisions.

32 A. All money collected by the board in the form of
33 application fees, reinstatement and renewal fees, expense
34 reimbursements ordered by the board or payment for services
35 such as reproduction and distribution of copies of board
36 decisions and photocopying or for the use of facilities must
37 be deposited with the Treasurer of State in a separate
38 account to be known as the Board of Licensure of Water
39 Treatment Plant Operators Fund.

40 B. The board may use the fund to defray the reasonable
41 costs incurred by the board in carrying out its duties.

2 C. Except as specified in this paragraph, any amount within
4 the fund that is not expended at the end of a fiscal year
6 does not lapse but is carried forward to be expended by the
8 board in carrying out its duties in succeeding fiscal
 years. Upon certification of the board that certain amounts
 in the fund are not required by the board, the Treasurer of
 State shall transfer the amounts to the General Fund.

10 8. Records. The board shall keep all records and minutes
12 necessary to the ordinary dispatch of its functions. The board
 shall keep a register of all applicants for licensure and a
 register of all licensees.

14 9. Reports. No later than August 1st of each year, the
16 board shall submit to the commissioner a report of its
18 transactions in the preceding fiscal year ending June 30th and
20 shall transmit to the commissioner a complete statement of all
 the receipts and expenditures of the board attested to by
 affidavits of the board's chair and secretary.

22 10. Staff. The commissioner, to the extent possible and
24 reasonable, shall make available to the board any staff,
26 facilities, equipment, supplies, information and other assistance
 the board may reasonably require to carry out its activities.
 The commissioner may also appoint, subject to the Civil Service
28 Law, the employees necessary to carry out this section. Any
 person so employed must be located in the department and under
 the administrative and supervisory direction of the commissioner.

30 11. Compensation of members. Members of the board are
32 entitled to reimbursement for expenses only, pursuant to Title 5,
 section 12004-A, subsection 46.

34 §2495. Licenses

36 The board may issue biennial licenses to individuals to act
38 as operators. The license must indicate the classification level
40 of the systems or parts of systems that the individual is
 qualified to operate.

42 The commissioner may file a complaint with the
44 Administrative Court to revoke the license of an operator when
46 the commissioner determines that the operator has practiced fraud
 or deception; that the operator has been negligent in that
 reasonable care or judgment or the application of the operator's
48 knowledge or ability was not used in the performance of duties;
 or that the operator is incompetent or unable to perform duties
 properly.

50

2 This chapter may not be construed to affect or prevent the
practices of any other legally recognized profession.

4 When the unexpired term of license of an applicant is or
will be more than one year at the time of licensure, the
6 commissioner may require the applicant to pay an additional fee
not to exceed 1/2 the biennial license fee.

8 **§2496. Renewals**

10 All licenses expire on December 31st of each biennial period
12 and may be renewed for 2-year periods without further examination
upon payment of the proper renewal fee as set forth in the
14 rules. A person who fails to renew a license within the 6-month
16 grace period following the expiration date must take and pass an
examination to renew that license.

18 The board shall notify a person registered under this
subchapter of the date of expiration of that person's license and
20 the fee required for its renewal for a 2-year period. The notice
must be mailed to the person's last known address at least 30
22 days in advance of the expiration date of that person's license.

24 **§2497. License from outside the State**

26 The board, upon application for licensure, may issue a
28 license without examination in a comparable classification to any
person who holds a license in any state, territory or possession
30 of the United States or any country if the requirements for
licensure of operators under which the person's license was
32 issued do not conflict with this chapter and, in the opinion of
the board, are of a standard not lower than that specified by
34 rules adopted under this subchapter.

36 **§2498. License from owner of particular system**

38 Licenses may be issued without examination to the person or
persons certified by the governing body or owner to have been in
40 direct responsible charge of a water treatment plant or a water
distribution or public water system between October 1, 1966 and
42 October 1, 1969. A license issued under this section is valid
only for that particular classification level of treatment plant
44 or system.

46 **§2499. Rules**

48 The board, in accordance with any other appropriate state
laws, shall adopt rules necessary to carry out the intent of this
50 subchapter. The rules must include, but are not limited to,
provisions establishing requirements for licensure and procedures

2 for examination of candidates and other provisions necessary for
3 the administration of this subchapter.

4 **§2500. Fees**

6 The application fees, biennial renewal fees and
7 reinstatement fees must be established by the board by rule and
8 must be based upon different classifications of public water
9 systems and water treatment plants and the levels of competence
10 to operate various water systems. The application fee may not
11 exceed \$35, and the biennial renewal fee may not exceed \$30.
12 Application fees are nonrefundable.

14 **§2501. Licensure; temporary conditional waiver**

16 If a supplier of water loses its licensed operator, it must
17 secure a new licensed operator or enter into a contractual
18 agreement with a licensed operator of proper classification until
19 a new operator has been employed for the supplier of water.

20 The board may, in the event of extenuating circumstances,
21 issue a waiver of the licensure requirements for a period not
22 exceeding 13 months. In granting the waiver, the board may
23 impose terms, conditions or requirements necessary in its
24 judgment to protect the public health and interest.

26 **§2502. Violations**

28 1. Violation. Any person violating any provision of this
29 subchapter or the rules and regulations adopted under this
30 subchapter commits a civil violation for which a forfeiture of
31 not more than \$500 may be adjudged. Each day of operation in
32 violation of this subchapter or any rules and regulations adopted
33 under this subchapter constitutes a separate violation.

36 2. Injunctive relief. The commissioner may commence or
37 cause to be instituted a civil action in the Superior Court under
38 subsection 1 to seek injunctive relief to prevent the violation
39 of this subchapter, to prevent the violation of any rule issued
40 pursuant to this subchapter or to require a public water system,
41 water treatment plant or supplier of water to take other action
42 necessary to comply with this subchapter, with or without a prior
43 order from the commissioner or department.

44 In addition to the county in which the principal place of
45 business of the public water system, water treatment plant or
46 supplier of water is located, the action may be instituted in the
47 Superior Court of Kennebec County.

50 **SUBCHAPTER V**

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PUBLIC WATER SUPPLIES

Article 1

Municipal Regulations

§2511. Public water source defined

As used in this subchapter, unless the context otherwise indicates, "public water source" means any natural or artificial impoundment, pond or lake or groundwater aquifer whose waters are transported or delivered by a public water system. When the intake of a public water supply is on the outlet of any impoundment, pond or lake, the source of that public water supply is considered to be the impoundment, pond or lake itself.

§2512. Municipal regulation authorized; penalty

1. Municipal regulations authorized. The municipal officers of each municipality, after notice and public hearing, may adopt regulations governing the surface uses of public water sources, portions thereof or land overlying groundwater aquifers and their recharge areas used as public water sources that are located within that municipality in order to protect their quality and the health, safety and welfare of persons dependent upon those sources.

At least 15 days prior to public hearings held under this section, notice of the hearing must be published in a newspaper of general circulation in the county in which the municipality is located and mailed by certified mail to each owner of land bordering the public water source within that municipality. Regulations adopted pursuant to this section become void one year after the date of adoption unless sooner ratified by vote of the legislative body of the municipality.

2. Penalty. Whoever willfully violates any regulation established under the authority of this section must, upon conviction, be penalized in accordance with Title 30-A, section 4452.

Article 2

Protection of Water Sources

§2513. Protection of public water source

2 A water utility, a municipality and the department are
authorized to take reasonable steps to protect a public water
4 source from pollution consistent with section 2462.

6 1. Right of entry for water utility. Employees or agents
of a water utility may enter upon land within 1,000 feet of a
8 public water source or upon land used for commercial or
industrial purposes having a facility, structure or system
10 draining into or suspected of flowing or seeping into a public
water source and inspect the facility, structure or system,
12 including any building or structure on that land. Entry onto
property under this subsection is not a trespass. The power of
14 entry and inspection may be exercised only after the water
utility has made a reasonable effort to obtain permission from
16 the landowner for the inspection.

18 2. Right of entry for department and consumer-owned water
utility. Employees or agents of the department or of a
20 consumer-owned water utility as defined in Title 35-A, section
6101 may enter any property at reasonable hours or enter any
22 building with the consent of the owner, occupant or agent to
inspect a wastewater disposal system draining into or suspected
24 of flowing or seeping into a public water source. Entry onto
property under this subsection is not a trespass. An employee or
26 agent of the department or a consumer-owned utility may seek an
administrative inspection warrant pursuant to the Maine Rules of
28 Civil Procedure, Rule 80E to carry out the purposes of this
subsection.

30 3. Remedy. In addition to rights granted to municipal
officers under Title 30-A, section 3428, any local or state
32 health inspector or officer may order the owner of any facility,
structure or system flowing or seeping into and contaminating a
34 public water source to remedy the situation if the contamination
may result in risk to the public health. The order must be
36 served in writing and state a time limit for compliance. An
order made pursuant to this subsection is not considered an
38 adjudicatory proceeding within the meaning of the Maine
Administrative Procedure Act. Any person aggrieved by an order
40 may appeal to the Superior Court within 30 days.

42 4. Court-ordered remedies. The water utility, municipality
or department may petition the Superior Court upon failure of the
44 person named in an order served under subsection 3 to comply with
that order. The court, after hearing, may order that appropriate
46 measures be taken.

48 5. Remedy ordered by water district or consumer-owned
utility. If the municipal officers have failed to act on a
50 malfunctioning wastewater disposal unit under Title 30-A, section

2 3428 and have notified a consumer-owned water utility as defined
3 in Title 35-A, section 6101 in writing of their failure to do so,
4 the consumer-owned water utility may assume the rights of
5 municipal officers under Title 30-A, section 3428, except that it
6 may not assess a special tax under Title 30-A, section 3428,
7 subsection 4, paragraph B.

8 6. Effect on other law. This section may not be construed
9 to limit in any way any private and special or other law granting
10 a water utility or municipality greater controls for protecting
11 its public water source than those set forth in this section.

12 **§2514. Protection of intake of public water supply**

13 A water utility or municipality is authorized, after
14 consultation with the Commissioner of Inland Fisheries and
15 Wildlife, the department and the Department of Conservation, and
16 after conducting a public hearing in the affected town, to
17 designate by buoys in the water or markers on the ice an area on
18 a lake or pond from which water is taken, with a radius
19 commencing at its point of intake. The radius may not exceed 400
20 feet, and within that area a person may not anchor or moor a boat
21 or carry on ice fishing or carry on any other activity designated
22 by the water utility or municipality when that restriction is
23 necessary to comply with state primary or secondary drinking
24 water rules, adopted pursuant to Title 22, section 2611,
25 applicable to public water systems. Any buoys placed in the water
26 must be plainly marked as required by the Director of the Bureau
27 of Parks and Lands under Title 12, section 1894. Any person
28 violating a restriction designated by buoys or markers must, on
29 conviction, be penalized in accordance with Title 30-A, section
30 4452.

31 This section may not be construed to limit in any way any
32 private and special law granting a water utility or municipality
33 greater controls for protecting the intake of its public water
34 supply than those set forth in this section.

35 **§2515. Protection of public water supplies over winter**

36 1. Petition for rules. Any water utility, water district
37 or municipality that relies on surface water for its water supply
38 may petition the Commissioner of Inland Fisheries and Wildlife to
39 adopt rules to regulate the size and range of motor vehicles
40 permitted on the ice of any reservoir or surface water that is
41 used as a public water supply. The petitioner must supply the
42 technical information in support of the decision. The
43 commissioner may adopt only rules that are reasonable and
44 necessary to protect the public water supply. These rules are
45 routine technical rules and must be adopted in accordance with
46 the rules of the Commissioner of Inland Fisheries and Wildlife.

2 Title 5, chapter 375, subchapter II-A after a public hearing in
3 the affected area.

4 2. Existing rules. Any rules that are adopted under
5 subsection 1 must be at least as strict as those already in
6 existence for that body of water. This section may not be
7 construed to limit in any way the authority of the municipal
8 officers to enact ordinances under Title 30-A, section 3009,
9 subsection 1, paragraph E or any private and special law granting
10 a water utility or municipality greater control for protecting
11 its public water supply than that set forth in this section.

12 3. Violation. A violation of the rules adopted under this
13 section is a civil violation for which a forfeiture of not more
14 than \$100 may be adjudged for each violation.

15 **§2516. Source water quality assessment program**

16
17 1. General authorization. The commissioner is authorized
18 to implement and carry out a source water quality assessment
19 program.

20
21 2. Rulemaking. The commissioner shall adopt rules
22 establishing the procedures for implementation and enforcement of
23 the source water quality assessment program to comply with state
24 and federal laws. Rules adopted pursuant to this subsection are
25 routine technical rules as defined in Title 5, chapter 375,
26 subchapter II-A.

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29 **SUBCHAPTER VI**

30
31 **TRANSPORT OF WATER**

32
33 **§2521. Legislative findings**

34
35 The Legislature finds that the transport of water for
36 commercial purposes in large quantities away from its natural
37 location constitutes a substantial threat to the health, safety
38 and welfare of persons who live in the vicinity of the water and
39 rely on it for daily needs. If the transport occurs, persons who
40 relied on the presence of water when establishing residences or
41 commercial establishments may find themselves with inadequate
42 water supplies. In addition, the Legislature finds that the only
43 practicable way to prevent the depletion of the water resources
44 is to prohibit the transport of water in large quantities away
45 from the vicinity of its natural location. The purpose of this
46 prohibition is, however, not to prevent the use of such supplies
47 for drinking and other public purposes in the vicinity of the
48 natural location of the water.

2 **§2522. Restrictions on transport of water**

4 **1. Prohibition.** Except as otherwise provided in this
6 section, a person may not transport water for commercial purposes
8 by pipeline or other conduit or by tank truck or in a container
10 greater in size than 10 gallons beyond the boundaries of the
12 municipality or township in which the water is naturally located
14 or beyond the boundaries of any bordering municipality or
16 township.

18 **2. Exceptions.** The prohibition in this section does not
20 apply to:

22 **A. A water utility as defined in Title 35-A;**

24 **B. Water transported for use in well drilling, construction**
26 activities, concrete mixing, swimming pool filling,
28 servicing portable toilets, firefighting, hospital
30 operations, aquaculture, agricultural applications or civil
32 emergencies;

34 **C. Water distilled as a by-product of a manufacturing**
36 process; and

38 **D. Water transported from a water source that, before July**
40 1, 1987, was used to supply water for bottling and sale and
42 that is used exclusively for bottling and is sold in its
44 pure form or as a carbonated or flavored beverage product.

46 **3. Appeal.** The Commissioner of Human Services, after
48 consultation with the Public Utilities Commission and the State
50 Geologist, may authorize transport of water for commercial
52 purposes if the commissioner finds that transport of the water
54 will not constitute a threat to public health, safety or welfare;
56 that the water is not available naturally in the location to
58 which it will be transported; and that failure to authorize
60 transport of the water would create a substantial hardship to the
62 potential recipient of the water. Authorization under this
64 subsection must be for a period not to exceed 3 years but may be
66 renewed subject to the same criteria.

68 **4. Conditions of authorization.** Notwithstanding Title 1,
70 section 302, the exceptions authorized in subsection 2 and any
72 authorization granted under subsection 3 are subject to future
74 legislative limitations of the right to transport water.

76 **5. Emergencies.** In case of an emergency, a person may
78 transport water as necessary for the duration of the emergency.
80 The person transporting the water shall inform the commissioner

2 within 3 days and the commissioner shall determine when the
3 emergency is over.

4 6. Penalty. A person who transports water in violation of
5 this section is guilty of illegal transport of water. Illegal
6 transport of water is a Class D crime. Each shipment, or day of
7 transport if by pipeline, is a separate offense.

8 SUBCHAPTER VII

10 MAINE PUBLIC DRINKING WATER COMMISSION

12 §2531. Definitions

14 As used in this subchapter, unless the context otherwise
15 indicates, the following terms have the following meanings.

16 1. Commission. "Commission" means the Maine Public
17 Drinking Water Commission established in section 2532.

18 2. Fund. "Fund" means the Public Drinking Water Fund
19 established in section 2535.

20 3. Primacy. "Primacy" means the federally delegated
21 primary enforcement authority to adopt, implement and enforce
22 federally mandated drinking water regulations promulgated
23 pursuant to the federal Safe Drinking Water Act as amended.

24 4. Program. "Program" means the Maine Drinking Water
25 Program established in section 2463, subsection 7.

26 §2532. Maine Public Drinking Water Commission

27 The Maine Public Drinking Water Commission as established by
28 Title 5, section 12004-I, subsection 22-D, is created within the
29 department.

30 1. Membership. The commission consists of the commissioner
31 or the commissioner's designee and 8 other members appointed by
32 the Governor in accordance with the following provisions.

33 A. Four of the members must represent the water-purveying
34 community and must be associated with public water systems.
35 One of the 4 must be associated with a public water system
36 serving a population of less than 500 people, one must be
37 associated with a public water system serving a population
38 of at least 500 but not more than 3,300 people, one must be
39 associated with a public water system serving a population
40 of at least 3,301 but not more than 10,000 people and one

2 must be associated with a public water system serving a
3 population greater than 10,000 people.

4 B. Four of the members must represent the public. At least
5 one of the 4 must be a user of a transient, noncommunity
6 water system and at least one must be a user of a
7 nontransient, noncommunity water system.

8 C. All members must have demonstrated interest, knowledge,
9 experience and expertise regarding public drinking water
10 concerns. The Governor shall seek to appoint members who,
11 to the greatest extent possible, are qualified by interest,
12 education, training or experience to provide, assess and
13 evaluate scientific and technical information regarding
14 public drinking water concerns, financial and staffing
15 requirements and the adoption of policies, standards and
16 rules.

17 D. The term of office for members appointed by the Governor
18 is 4 years. Members may remain in office until their
19 successors are appointed. A member may not serve more than
20 2 consecutive terms. If a vacancy occurs, the Governor
21 shall appoint a replacement to fill the remaining portion of
22 the unexpired term created by the vacancy.

23 2. Chair; vice-chair. The members shall elect from among
24 themselves a chair and a vice-chair who serve for one-year
25 terms. The chair and vice-chair may continue to hold those
26 offices until their successors are elected. The chair calls
27 meetings of the commission and presides over meetings. The
28 vice-chair serves as the chair in the absence of the chair.

29 3. Meetings. The commission shall hold at least 2 regular
30 meetings each year and may hold additional regular meetings.
31 Special meetings may be called by the chair, by the commissioner
32 or the commissioner's designee or by at least 3 members of the
33 commission. Five members constitute a quorum.

34 4. Duties. The commission shall:

35 A. Evaluate the proportion of program effort dedicated to
36 each type of public water system served by the program;

37 B. Evaluate existing and projected program workloads;

38 C. Evaluate existing program resources and project future
39 staffing and resource requirements;

40 D. Determine funding requirements necessary to meet
41 projected workloads and staffing and resource requirements;

2 E. Determine an equitable program funding share for each
3 type of public water system that recognizes the level of
4 program effort required for that public water system;

6 F. Determine fee formulas and collection and transfer
7 schedules for each type of public water system; and

8
9 G. Submit to the commissioner annually by August 1st a
10 report that must include, but is not limited to, a
11 performance evaluation of the program, including the
12 implementation of administrative remedies, and commission
13 recommendations regarding, but not limited to,
14 administrative remedies, program operations, funding and
15 staffing requirements, funding formulas and fee collection
16 and transfer schedules.

18 5. Compensation. Members of the commission are entitled to
19 reimbursement by the department for expenses as authorized by
20 Title 5, chapter 379.

22 6. Annual accounting. Within 60 days of the conclusion of
23 the fiscal year for the program, the manager of the program shall
24 submit to the commission an accounting of all of the funds
25 expended by the program during the fiscal year.

26 §2533. Annual work plan on primacy

28
29 Annually, by January 1st, the commissioner shall submit to
30 the commission a work plan and budget listing all funding
31 sources, including but not limited to appropriations from the
32 General Fund and allocations from the United States Environmental
33 Protection Agency, that are used for the purpose of complying
34 with federal requirements for maintaining primacy. The work plan
35 must include goals and objectives relating to the use of
36 administrative remedies that are consistent with other parts of
37 the work plan.

38 §2534. Fees related to primacy

40 The commissioner may impose an annual operation fee upon
41 each public water system in the State.

44 1. Rules. The department shall establish equitable fee
45 formulas by rule adopted in accordance with the Maine
46 Administrative Procedure Act. The department shall consult with
47 and consider the advice of the commission in preparing the
48 rules. Rules adopted by the department under this section are
49 routine technical rules pursuant to Title 5, chapter 375,
50 subchapter II-A and must include the fee formulas and collection

2 and transfer schedules developed by the commission. Fees may be
3 based on, but are not limited to, the population served, service
4 connections, volume of water pumped or available seats,
5 campsites, rooms or lots and may include fixed or graduated fee
6 formulas or combinations of the fee formulas. The base fee may
7 be no more than \$50 per year per public water system. The base
8 plus per capita fee may be no more than \$30,000 per year per
9 public water system.

10 2. Collection and disposition of fees. Fees adopted under
11 this section must be collected by each public water system in
12 monthly, quarterly or annual increments. Fees collected by
13 public water systems under this section are state fees. The
14 department shall establish schedules for the collection and
15 transfer of fees to the State with the advice of the commission.

16 3. Suspension and reinstatement of fees. Fees imposed
17 under this section are suspended on the first day of the calendar
18 quarter following any calendar quarter in which primacy is
19 withdrawn by the Federal Government. Fees suspended under this
20 subsection may be reinstated on the first day of the calendar
21 quarter following the quarter in which the State regains primacy.

22 **§2535. Public Drinking Water Fund**

23 The Public Drinking Water Fund is established as an
24 interest-bearing dedicated revenue account. All interest earned
25 by the account becomes part of the fund. All fees collected by
26 the commissioner under this subchapter must be deposited into the
27 fund. Any balance remaining in the fund at the end of the fiscal
28 year does not lapse but is carried forward into subsequent fiscal
29 years. The commissioner may use the fund only to support the
30 program, including the cost of salaries, benefits, travel,
31 education, technical assistance, capital equipment and other
32 allowable expenses incurred by the program.

33 **§2536. Enforcement**

34 The department shall enforce this subchapter in accordance
35 with section 2478.

36 **SUBCHAPTER VIII**

37 **MAINE WATER WELL DRILLING PROGRAM**

38 **§2541. Program established**

39 The Maine Water Well Drilling Program is established to
40 provide the public with the highest quality drinking water
41 possible by ensuring that water wells are drilled, constructed,
42 operated and maintained in accordance with the standards
43 established by the department.

2 altered or abandoned in a manner that protects groundwater from
3 contamination.

4 **§2542. Administrative authority**

6 The Maine Water Well Drilling Commission, as established in
7 Title 5, section 12004-G, subsection 13-B, shall administer the
8 Maine Water Well Drilling Program. The commission has the powers
9 and duties set forth in Title 32, chapter 69-C.

10 **§2543. Enforcement**

12 The department shall enforce this subchapter.

14 **Sec. 39. Transition provisions.**

16 1. Rules adopted by the Department of Human Services to
18 implement the portions of the Maine Revised Statutes, Title 22,
19 chapter 601 repealed by this Act remain in effect and are
20 enforced by the Department of Environmental Protection.

22 2. Variances and exemptions granted by the Department of
23 Human Services under the portions of the Maine Revised Statutes,
24 Title 22, chapter 601 repealed by this Act remain in effect if
25 there is no unreasonable risk to public health until they expire
26 or are revoked or rescinded by the Department of Environmental
27 Protection.

28 3. Emergency orders, administrative compliance orders,
29 administrative consent orders and administrative penalty
30 agreements enforced by the Department of Human Services pursuant
31 to the portions of the Maine Revised Statutes, Title 22, chapter
32 601 repealed by this Act remain in effect if there is no
33 unreasonable risk to public health until they expire or are
34 revoked or rescinded by the Department of Environmental
35 Protection.

36 4. Licenses issued pursuant to the former Maine Revised
37 Statutes, Title 22, chapter 601, subchapter III remain in effect
38 under Title 38, chapter 32, subchapter IV.

39 5. Members of the Board of Licensure of Water Treatment
40 Plant Operators appointed pursuant to the former Maine Revised
41 Statutes, Title 22, section 2624-A, remain members of the Board
42 of Licensure of Water Treatment Plant Operators under Title 38,
43 section 2494 with their terms intact.

44 6. Members of the Maine Public Drinking Water Commission
45 appointed pursuant to the former Maine Revised Statutes, Title 22

chapter 601 remain members of the Maine Public Drinking Water Commission under Title 38, chapter 32 with their terms intact.

7. Any positions authorized and allocated subject to the personnel laws to the former Maine Drinking Water Program under the Department of Human Services are transferred to the Maine Drinking Water Program under the Department of Environmental Protection.

8. All records, property and equipment previously belonging to or allocated for the use of the former Maine Drinking Water Program under the Department of Human Services become on the effective date of this section the records, property and equipment of the Drinking Water Program under the Department of Environmental Protection.

Sec. 40. Integration of Maine Drinking Water Program into Department of Environmental Protection. The Department of Environmental Protection shall hire a consultant to advise the department on how best to coordinate and integrate the Maine Drinking Water Program into its structure. The consultant shall review components of the program and the Department of Human Services, Division of Health Engineering that are needed to administer the federal Safe Drinking Water Act, Public Law 93-523 and its amendments and recommend a structure that effectively integrates the functions into the Department of Environmental Protection. The consultant shall:

1. Meet with an advisory group composed of the regulated community to update and get feedback on findings and recommendations;

2. Forward a copy of the final recommendations to the Task Force to Study the Improvement of Public Water Supply Protection as constituted pursuant to Resolve 1999, chapter 80; and

3. By March 5, 2001, recommend to the Commissioner of Environmental Protection and the joint standing committee of the Legislature having jurisdiction over natural resources matters any additional functions that should be transferred to the Department of Environmental Protection to further administer and coordinate the federal Safe Drinking Water Act. The joint standing committee of the Legislature having jurisdiction over natural resources matters has the authority to report out legislation to effect those changes.

Sec. 41. Education strategy. By March 5, 2001, the Land and Water Resources Council shall develop an education strategy for public water supply protection aimed at municipalities and the general public. The strategy must include the message and

2 tools to reach various audiences that affect the protection of
public drinking water supplies. The council must develop
4 recommendations and a budget to implement its proposal and
recommend a position and budget within the Department of
6 Environmental Protection to implement this strategy. The council
shall report to the joint standing committee of the Legislature
8 having jurisdiction over natural resources matters by March 15,
2001 and the joint standing committee may report out any
legislation needed to implement these recommendations.

10 **Sec. 42. Convene task force.** By September 1, 2000, the
12 Department of Environmental Protection shall convene a task force
that includes stakeholders to review the current framework for
14 regulating aboveground oil storage tanks. This task force must
evaluate whether:

16 1. The resources to properly regulate aboveground oil
18 storage tanks exist;

20 2. The right agencies are in charge of regulating
aboveground oil storage tanks; and

22 3. The requirements concerning aboveground oil storage
24 tanks are adequate.

26 Task force members must include members of the Office of the
State Fire Marshal, the Oil and Solid Fuel Board, the Department
28 of Environmental Protection and the regulated community. This
task force must report back to the joint standing committee of
30 the Legislature having jurisdiction over natural resources
matters no later than January 2, 2002. The joint standing
32 committee of the Legislature having jurisdiction over natural
resources matters may report out a bill with its recommendations
34 concerning this issue to the Second Regular Session of the 120th
Legislature.

36 **Sec. 43. Effective date.** This Act takes effect on July 1, 2001,
38 except that sections 40, 41 and 42 and those sections affecting
the Maine Revised Statutes, Title 30-A take effect 90 days after
40 adjournment of the Second Regular Session of the 119th
Legislature.

44 **SUMMARY**

46 This bill embodies the recommendations of the Task Force to
Study the Improvement of Public Water Supply Protection,
48 established pursuant to Resolve 1999, chapter 80. That task
force found that public water supplies as a resource need better

2 protection. It also suggested that the Maine Drinking Water
Program be moved from the Department of Human Services to the
4 Department of Environmental Protection and that an education
initiative on the importance of public water supplies be
6 developed for municipal officials and the public.

8 Notice requirements are strengthened for projects that could
threaten water supplies. The bill proposes to require a
10 municipality to give a water supplier notice if a project is
proposed near its groundwater wells or surface water intakes.

12 This bill establishes public water supply protection in the
laws administered by the Department of Environmental Protection.
14 The scope of the bill fulfills the goal statement developed by
the task force to: ensure public health and to allow the state,
16 municipalities and public water systems to identify significant
public water supplies; strive for a higher degree of protection
18 around source water areas or areas that are used as public
drinking water supplies; and allow the State, municipalities, and
20 water systems to pursue watershed or wellhead protection
activities around significant public water supplies. The bill
22 also shifts the administration of the Maine Drinking Water
Program to the Department of Environmental Protection.

24 This bill allows the Department of Environmental Protection
26 to deny, based on the presence of existing threats, an
application to establish a new public water supply.

28 The bill empowers the Department of Environmental Protection
30 to hire a consultant to help integrate the Maine Drinking Water
Program into its overall structure and to recommend additional
32 changes. It also allows for an education strategy to be
developed under the auspices of the Land and Water Resources
34 Council. It is envisioned that an educator will be hired within
the Department of Environmental Protection to implement this
36 strategy.