

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

---

Legislative Document

No. 913

S.P. 266

In Senate, February 15, 2001

**An Act Regarding Variances to the Implementation Dates of the Nutrient Management Law.**

(EMERGENCY)

---

Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 204.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KNEELAND of Aroostook.  
Cosponsored by Representative GOOLEY of Farmington and  
Representatives: CARR of Lincoln, JODREY of Bethel, LUNDEEN of Mars Hill, PINEAU of Jay.

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** the State is encountering increasing numbers of  
variance requests from Maine citizens regarding the writing and  
certification of nutrient management plans that have a due date  
of January 1, 2001; and

10           **Whereas,** the Department of Agriculture, Food and Rural  
Resources does not have clear legislative language to adequately  
grant variances on the January 1, 2001 due date to Maine farms  
under current Maine law; and

14  
16           **Whereas,** the Department of Agriculture, Food and Rural  
Resources may need to ask the Department of the Attorney General  
to seek penalties as of January 1, 2001 if no variances are  
issued by the department; and

20           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
safety; now, therefore,

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

28           **Sec. 1. 7 MRSA §4204, sub-§8,** as enacted by PL 1999, c. 530,  
§4, is amended to read:

30  
32           **8. Variances.** The commissioner may grant a variance from  
the date for having a nutrient management plan written and  
34 certified or the implementation date referred to in subsection 4,  
5 or 6 when the commissioner finds that the completion and  
36 certification or the implementation of the plan would cause undue  
hardship. A person requesting a variance shall submit a request  
in writing to the commissioner ~~at least 90 days prior to the~~  
38 ~~applicable implementation date.~~ The commissioner shall establish  
by rule criteria and a process for granting a variance. Factors  
40 considered must include protection of groundwater and surface  
water, cost of implementing the plan and availability of  
42 financial assistance to implement the plan. Rules adopted  
pursuant to this subsection are routine technical rules as  
44 defined in Title 5, chapter 375, subchapter II-A.  
Notwithstanding the provisions of this subsection, a variance may  
46 not extend an implementation date beyond December 31, 2008. A  
person denied a variance by the commissioner may appeal that  
48 decision to the board.

2           **Sec. 2. Retroactivity.** This Act applies retroactively to  
January 1, 2001.

4           **Emergency clause.** In view of the emergency cited in the  
6 preamble, this Act takes effect when approved.

8  
**SUMMARY**

10           This bill clarifies the current nutrient management law  
12 regarding the issuance of variances for the completion and  
certification of nutrient management plans by January 1, 2001.  
14 The proposed changes would clarify that the Commissioner of  
Agriculture, Food and Rural Resources may issue a variance from  
16 the January 1, 2001 deadline when completion and certification of  
the plan would cause undue hardship. The bill also eliminates  
18 the requirement for a 90-day time period between the time of the  
request for a variance and the completion and certification of a  
20 nutrient management plan date of January 1, 2001, or the October  
1, 2007 deadline for implementation of such a plan.