

## CHAPTER 601

### WATER FOR HUMAN CONSUMPTION

#### SUBCHAPTER 1

#### GENERAL PROVISIONS

##### §2601. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1975, c. 751, §4 (NEW).]

**1. Contaminant.** "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.  
[PL 1975, c. 751, §4 (NEW).]

**1-A. Administrative compliance order.** "Administrative compliance order" means an administrative order that is issued by the commissioner against a public water system in violation of state drinking water laws, regulations or rules.  
[PL 1993, c. 678, §1 (NEW).]

**1-B. Administrative consent order.** "Administrative consent order" means an order issued by the commissioner pursuant to a bilateral agreement between the commissioner and a public water system in violation of state drinking water laws, regulations or rules.  
[PL 1993, c. 678, §1 (NEW).]

**1-C. Administrative penalty.** "Administrative penalty" means a fine imposed by the commissioner against a public water system in violation of state drinking water laws, regulations or rules.  
[PL 1993, c. 678, §1 (NEW).]

**1-D. Administrative remedy.** "Administrative remedy" means an administrative compliance order, an administrative consent order or an administrative penalty.  
[PL 1993, c. 678, §1 (NEW).]

**2. Feasible.** "Feasible" means capable of being done within the current limitation of economics and technology, as determined by the commissioner.  
[PL 1975, c. 751, §4 (NEW).]

**3. Maximum contaminant level.** "Maximum contaminant level" means the maximum concentration of a contaminant allowed under the State Primary Drinking Water Regulations in water supplied for human consumption.  
[PL 1975, c. 751, §4 (NEW).]

**4. National Drinking Water Regulations.** "National Drinking Water Regulations" means the drinking water regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the authority of the Safe Drinking Water Act, P.L. 93-523.  
[PL 1975, c. 751, §4 (NEW).]

**4-A. Notice of noncompliance.** "Notice of noncompliance" means a formal written complaint or a notice of violation of state drinking water laws, regulations or rules.  
[PL 1993, c. 678, §1 (NEW).]

**5. Operator.** "Operator" means an individual either employed or retained by a public water system who, as part of the individual's job duties, is assigned the responsibilities for operational activities that will have a direct impact on the quality or quantity of water provided to consumers.  
[PL 1999, c. 688, §1 (AMD).]

**6. Person.** "Person" means any individual, partnership, company, public or private corporation, political subdivision or agency of the State, department, agency or instrumentality of the United States or any other legal entity.  
[PL 1975, c. 751, §4 (NEW).]

**7. Political subdivision.** "Political subdivision" means any municipality, county, district or any portion or combination of 2 or more thereof.  
[PL 1975, c. 751, §4 (NEW).]

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

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

A. The water is used exclusively for purposes other than residential uses. For the purposes of this subsection, the term "residential uses" includes drinking, bathing, cooking and other similar uses; and [PL 1997, c. 705, §1 (NEW).]

B. The commissioner determines that alternative water to achieve the equivalent level of public health protection provided by the applicable state primary drinking water regulation is provided for residential or similar uses; or [PL 1997, c. 705, §1 (NEW).]

C. The commissioner determines that the water provided for residential or similar uses is centrally treated or treated at the point of entry by the provider, a pass-through entity or the user to achieve the equivalent level of protection provided by the applicable state primary drinking water regulation. [PL 1997, c. 705, §1 (NEW).]

[PL 1997, c. 705, §1 (AMD).]

**8-A. Roadside spring.** "Roadside spring" means any spring, well or other water diverted by pipes for the use of the public to obtain water by using containers or other methods, including but not limited to water being diverted and collected by a landowner by tiles, pipes, catch basins, buildings or other appurtenances.  
[PL 1997, c. 45, §1 (NEW).]

**9. Supplier of water.** "Supplier of water" means any person who controls, owns or generally manages a public water system.  
[PL 1975, c. 751, §4 (NEW).]

**9-A. Violation.** "Violation" means noncompliance with state drinking water laws, regulations and rules regardless of whether that noncompliance is intentional, negligent or otherwise.

[PL 1993, c. 678, §1 (NEW).]

**10. Water treatment plant.** "Water treatment plant" means that portion of the public water system which is designed to alter the physical, chemical, biological or radiological quality of the water or to remove any contaminants.

[PL 1975, c. 751, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1993, c. 410, §DD2 (AMD). PL 1993, c. 678, §1 (AMD). PL 1997, c. 45, §1 (AMD). PL 1997, c. 705, §1 (AMD). PL 1999, c. 688, §1 (AMD).

#### §2601-A. Scope

This chapter establishes a system designed to help ensure public health; to allow the State, municipalities and public water systems to identify significant public water supplies and strive for a higher degree of protection around source water areas or areas that are used as public drinking water supplies; to allow the State, municipalities and water systems to pursue watershed or wellhead protection activities around significant public water supplies; and to improve testing for and treatment of contaminants or properties in residential private drinking water wells. [PL 2017, c. 230, §1 (AMD).]

#### SECTION HISTORY

PL 1999, c. 761, §1 (NEW). PL 2017, c. 230, §1 (AMD).

#### §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 performed in the departmental diagnostic laboratory. The fees must be recalculated and deposited according to section 565, subsection 3 and section 568. [PL 2001, c. 471, Pt. A, §26 (AMD).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 2001, c. 471, §A26 (AMD).

#### §2602-A. Fees for testing private water supplies

**1. Purpose.** The Legislature finds that there is a growing threat to the State's drinking water from a variety of contaminants or properties and that testing of private residential water supplies is necessary to protect the public health. The Legislature recognizes that certain testing may be prohibitively expensive and accordingly provides for state-funded testing as set forth in this section.

[PL 2017, c. 230, §2 (AMD).]

**2. Fees.** Except as provided in subsection 3, the department shall charge the average cost of the analysis for an examination, testing or analysis of private residential water supplies requested under this chapter. These fees must be recalculated and deposited according to section 565, subsection 3 and section 568, except that the fee charged for testing a private residential water supply may not exceed \$150 when:

A. In the opinion of the department, initial testing or screening performed at the expense of the owner indicates the need for additional testing at a cost in excess of \$150 to determine whether that water supply contains contaminants potentially hazardous to human health and that additional testing is essential to the maintenance of public health; or [PL 1983, c. 837, §1 (NEW).]

B. In the opinion of the department, there is reason to suspect that a private residential water supply may be affected by contamination potentially hazardous to human health and that additional testing is essential to the maintenance of public health. In making such a determination, the department shall consider the following:

- (1) The proximity of the private residential water supply to a known or suspected source of contamination;
- (2) The proximity of the private residential water supply to another private well or water supply known to be contaminated;
- (3) Information provided in writing to the department by a physician who has seen or treated a person and who has identified contaminated drinking water as a possible cause of the person's condition or symptoms; or
- (4) Information provided by the owner or a user of the private residential water supply voluntarily or in response to questions asked by personnel of the department. [PL 1991, c. 499, §3 (AMD); PL 1991, c. 499, §26 (AFF).]

The department shall waive all fees incurred in connection with the testing of a private residential water supply upon a showing of indigency.

[PL 2021, c. 483, Pt. BB, §1 (AMD).]

**3. Well water testing for low-income residents.** The department shall establish and maintain a program through the Health and Environmental Testing Laboratory established in section 565 to provide free testing for arsenic of the private residential water supplies of low-income residents of the State. The department may not charge any fee or recover any cost as otherwise permitted by this chapter for a test of a private residential water supply performed for a low-income resident of the State under the program established pursuant to this subsection. As used in this subsection, "low-income resident" means a person who receives assistance under the MaineCare program or the food supplement program under section 3104.

[PL 2021, c. 483, Pt. BB, §2 (NEW).]

#### SECTION HISTORY

PL 1981, c. 703, §A20 (NEW). PL 1983, c. 837, §1 (RPR). PL 1991, c. 499, §3 (AMD). PL 1991, c. 499, §26 (AFF). PL 2017, c. 230, §2 (AMD). PL 2021, c. 483, Pt. BB, §§1, 2 (AMD).

#### §2603. Shipping costs

Any person required under this chapter to submit samples of water to the department for analysis shall pay the shipping charges thereon. [PL 1975, c. 751, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW).

#### §2604. Schools, sampling and examination of water

Any school, which takes water from a source other than a public water system and uses such water for drinking or culinary purposes, shall submit samples of such water to the department for analysis at least once during each school year. Such samples shall be analyzed by the department. If the water is found to violate the state primary drinking water regulations, the department shall issue an order prohibiting the use of the water for drinking or culinary purposes by the school, which order shall remain in force until the water conforms to the state primary drinking water regulations. [PL 1975, c. 751, §4 (NEW).]

Violation of this section shall, on conviction, be punishable by a fine of not more than \$500. [PL 1975, c. 751, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW).

#### §2604-A. Roadside springs

A roadside spring is not a public water system if the owner of the roadside spring does not collect, charge or accept donations, fees or money for the water or for testing or maintenance of the water and does not post signs or construct other structures that invite persons to use the spring. [PL 1997, c. 45, §2 (NEW).]

#### SECTION HISTORY

PL 1997, c. 45, §2 (NEW).

#### §2604-B. Schools, sampling and examination of water for lead

**1. Definition.** As used in this section, unless the context otherwise indicates, "school" means a private school as defined in Title 20-A, section 1, subsection 22 or a public school as defined in Title 20-A, section 1, subsection 24.

[PL 2019, c. 158, §1 (NEW).]

**2. Lead testing.** To the extent the department provides the necessary resources to a school so that the school is not required to expand or modify its activities so as to necessitate additional expenditures from local revenue, a school shall test water used for drinking or culinary purposes for lead using water testing kits or by submitting samples of water used for drinking or culinary purposes to an approved laboratory under section 2607 for lead testing. If the water is found to violate the water lead levels established by the department, the department shall issue specific guidance to the school on reducing exposure to lead according to procedures established by the department pursuant to subsection 3.

[PL 2019, c. 158, §1 (NEW).]

**3. Rules.** The department shall adopt rules necessary to implement this section, including, but not limited to, establishing water lead levels; testing protocols, including the frequency of testing; abatement or mitigation methods; procedures for the issuance of guidance to reduce exposure to lead; and public notification procedures. In adopting rules to implement this section, the department shall consider the United States Environmental Protection Agency's recommendations for reducing lead in drinking water in schools.

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 158, §1 (NEW).]

**4. Implementation.** In implementing this section, the department:

A. May not require a school to expand or modify its activities so as to necessitate additional expenditures from local revenue; and [PL 2019, c. 158, §1 (NEW).]

B. Within existing resources, to the maximum extent possible, shall provide resources to schools in order to achieve the purposes of this section. If the department determines that sufficient resources are unavailable to a school in order to achieve the purposes of this section, the department shall seek to identify alternative means to achieve the purposes of this section. [PL 2019, c. 158, §1 (NEW).]

[PL 2019, c. 158, §1 (NEW).]

**5. Reports.** By January 1, 2021 and annually thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the number of schools tested for lead, whether the department issued specific guidance to any schools to reduce exposure to lead, the number of schools that engaged in abatement or mitigation and the methods of abatement or mitigation used.

[PL 2019, c. 158, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 158, §1 (NEW).

**§2605. Administration**

To carry out this chapter, the commissioner is authorized and empowered to: [PL 1975, c. 751, §4 (NEW).]

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

[RR 2021, c. 2, Pt. B, §128 (COR).]

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

[PL 1975, c. 751, §4 (NEW).]

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

[PL 1975, c. 751, §4 (NEW).]

**4. Fiscal control and accounting.** Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and accounting for funds;

[PL 1975, c. 751, §4 (NEW).]

**5. Procedures.** Adopt and implement adequate procedures to insure compliance with this chapter and rules and regulations promulgated hereunder, including procedures for the monitoring and inspection of public water systems; and

[PL 1975, c. 751, §4 (NEW).]

**6. Advising other agencies.** Advise other regulatory agencies of the department's rules, regulations and orders promulgated under this chapter.

[PL 1975, c. 751, §4 (NEW).]

Except as otherwise specifically provided by law, the commissioner may impose no standard, method or procedure upon any water utility, as defined in Title 35-A, section 102, that is more stringent than required under the federal Safe Drinking Water Act, as amended, or rules promulgated under that Act by the Administrator of the United States Environmental Protection Agency, unless the particular standard, method or procedure has been adopted in a rule adopted according to the Maine Administrative Procedure Act and the rule specifies in detail the scientific basis justifying the more stringent standard, method or procedure and the precise criteria for when the standard, method or procedure applies to a water utility. [PL 1993, c. 514, §1 (NEW).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1993, c. 514, §1 (AMD). RR 2021, c. 2, Pt. B, §128 (COR).

**§2606. Emergency planning**

The department shall develop plans, with the advice and assistance of the Bureau of Emergency Preparedness and of the public water systems of the State, for emergency conditions and situations that may endanger the public health or welfare by contamination of drinking water. Such plans shall include potential sources of contaminants and situations or conditions that could place them in the sources of public drinking water, techniques and methods to be used by public water systems to reduce or eliminate the dangers to public health caused thereby, methods and times for analysis or testing during such emergency conditions or situations, alternate sources of water available to public water systems and methods of supplying drinking water to consumers if a public water system cannot supply such water. [PL 1975, c. 751, §4 (NEW).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW).

**§2607. Approved laboratories**

The department shall approve the facilities, techniques, testing methods and training of personnel of any laboratories that analyze water samples to determine compliance with State Primary Drinking Water Regulations. Such approval shall be based on the capability of the laboratory to accurately and reliably analyze samples to determine their contaminant levels under the State Primary Drinking Water Regulations, and may be limited to approval of only certain tests or contaminant level determinations. Any sample analysis performed by a laboratory not approved by the department shall not be considered in determining the compliance of a public water system with the State Primary Drinking Water Regulations. [PL 1975, c. 751, §4 (NEW).]

SECTION HISTORY

PL 1975, c. 751, §4 (NEW).

**§2608. Information on private water supply contamination; interagency cooperation**

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

A. Make reports of potential contamination of private water supplies; and [PL 1983, c. 837, §2 (NEW).]

B. Request information on potential ground water contamination at or near the site of a private water supply. [PL 1983, c. 837, §2 (NEW).]

[PL 1983, c. 837, §2 (NEW).]

**2. Interagency cooperation.** The department shall coordinate with the Department of Environmental Protection for the purposes of:

A. Assessing the public health implications of reports or requests made by citizens in subsection 1; and [PL 1983, c. 837, §2 (NEW).]

B. Determining the appropriate response to those reports or requests, including, but not limited to, on-site investigation, well water testing and ground water monitoring. [PL 1983, c. 837, §2 (NEW).]

[PL 1983, c. 837, §2 (NEW).]

**3. Cooperation with local health officer.**

[PL 2007, c. 598, §12 (RP).]

SECTION HISTORY

PL 1983, c. 837, §2 (NEW). PL 2007, c. 598, §12 (AMD).

**§2609. Recovery of testing costs**

Whenever the cost of testing a private residential water supply exceeds \$150 and that testing is conducted pursuant to section 2602-A, the department shall seek to recover the costs of the testing above \$150 from the person responsible for contaminating the water supply, or from the recipient of any compensation for the contamination of the well. [PL 1983, c. 837, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 837, §2 (NEW).

**§2610. Maine Drinking Water Fund**

**1. Establishment; administration.** The Maine Drinking Water Fund, referred to in this section as "the fund," is established as provided in this section.

A. The fund is established as a nonlapsing fund to provide financial assistance, in accordance with subsection 2, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection and improvement of public water systems, drinking water supplies and water treatment facilities. [PL 2009, c. 377, §1 (NEW).]

B. The department shall administer the fund. The fund must be invested in the same manner as permitted for investment of funds belonging to the State or held in the State Treasury. The fund must be established and held separate from any other funds and used and administered exclusively for the purpose of this section. The fund consists of the following:

(1) Sums that are appropriated by the Legislature or transferred to the fund from time to time from the State Water and Wastewater Infrastructure Fund, pursuant to Title 30-A, section 6006-H;

(2) Interest earned from the investment of fund balances; and

(3) Other funds from any public or private source received for use for any of the purposes for which the fund has been established. [PL 2009, c. 377, §1 (NEW).]

[PL 2009, c. 377, §1 (NEW).]

**2. Uses.** The fund may be used for one or more of the following purposes:

A. To make grants to public water systems, pursuant to this section, for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public water systems, drinking water supplies or water treatment facilities; [PL 2009, c. 377, §1 (NEW).]

B. To forgive loans held by public water systems for the acquisition, planning, design, construction, reconstruction, enlargement, repair, protection or improvement of public water systems, drinking water supplies or water treatment facilities; [PL 2009, c. 377, §1 (NEW).]

C. To provide a state match for federal funds provided to the Safe Drinking Water Revolving Loan Fund, pursuant to Title 30-A, section 6006-B; [PL 2009, c. 377, §1 (NEW).]

D. To invest available fund balances and to credit the net interest income on those balances to the fund; and [PL 2009, c. 377, §1 (NEW).]

E. To pay the costs of the department associated with the administration of the fund, as long as no more than 5% of the aggregate of the highest fund balance in any fiscal year is used for these purposes. [PL 2009, c. 377, §1 (NEW).]

[PL 2009, c. 377, §1 (NEW).]

**3. Rules.** The department shall adopt rules necessary to implement this section, including rules to establish one or more grant programs in accordance with subsection 2, paragraph A. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2009, c. 377, §1 (NEW).]

#### SECTION HISTORY

PL 2009, c. 377, §1 (NEW).

## SUBCHAPTER 2

### SAFE DRINKING WATER ACT

#### §2611. Drinking water regulations



**1. State primary drinking water regulations.** The commissioner shall promulgate and enforce primary drinking water regulations which are necessary to protect the public health and which shall apply to all public water systems. Such regulations shall include:

- A. Identification of contaminants which may have an adverse effect on the health of persons; [PL 1975, c. 751, §4 (NEW).]
- B. Specifies for each contaminant either:
  - (1) A maximum contaminant level that is acceptable in water for human consumption, if it is feasible to ascertain the level of such contaminant in water in public water systems; or
  - (2) One or more treatment techniques or methods which 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 contaminant in water in the public water system; and [PL 1975, c. 751, §4 (NEW).]
- C. Criteria and procedures to assure compliance with the levels or methods determined under paragraph B, including quality control and testing procedures to insure compliance with such levels or methods and to insure proper operation and maintenance of the system, and requirements as to the minimum quality of water which may be taken into the system and the siting for new facilities. [PL 1975, c. 751, §4 (NEW).]

Such regulations shall be no less stringent than the most recent National Primary Drinking Water Regulations in effect, as issued or promulgated by the United States Environmental Protection Agency. Regulations under this subsection may be amended from time to time, as necessary. [PL 1975, c. 751, §4 (NEW).]

**2. State secondary drinking water regulations or guidelines.** The commissioner shall adopt secondary drinking water regulations or guidelines which are necessary to protect the public welfare. Such regulations or guidelines may apply to any contaminant in drinking water which may adversely affect the color, odor or appearance of the water and consequently may cause a substantial number of persons to discontinue using a public water system, or which may otherwise adversely affect the public welfare. Such regulations or guidelines may vary according to geographic, economic, technical or other relevant circumstances. Such regulations or guidelines shall reasonably assure the protection of the public welfare and the supply of aesthetically adequate drinking water; and shall be based upon the National Secondary Drinking Water Regulations promulgated by the United States Environmental Protection Agency. Regulations or guidelines under this subsection may be amended from time to time, as necessary. [PL 1975, c. 751, §4 (NEW).]

**3. Procedure for adopting or amending regulations or guidelines.** [PL 1977, c. 694, §364 (RP).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1977, c. 694, §364 (AMD).

#### §2612. Approval of construction or alteration, training, inspection, regulations and records

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

- A. The commissioner may exempt the construction, addition or alteration from submission and approval if it will have no effect on public health or welfare. [PL 1999, c. 761, §2 (NEW).]
- B. The department must consult with and advise persons planning or operating a public water system as to the most appropriate source of supply and the best methods of ensuring its purity. The department must consider any existing potential sources of contamination in the vicinity of the

proposed source of supply when reviewing whether to approve a new source of supply and may deny approval based on those existing potential sources of contamination. [PL 1999, c. 761, §2 (NEW).]

C. In granting approval of plans and specifications, the department may require modifications, conditions or procedures to ensure, as far as feasible, the protection of the public health. The department may adopt and enforce rules governing the construction or alteration of public water systems to ensure the protection of the public health and may require the submission of water samples for analysis to determine the extent of treatment required. [PL 1999, c. 761, §2 (NEW).]

Records of construction, including, when feasible, plans and descriptions of existing public water systems, must be maintained by public water systems and made promptly available to the department upon request.

[PL 1999, c. 761, §2 (RPR).]

**2. Operation and maintenance of public water systems.** The department shall monitor the operation and maintenance of any public water system in the State. Such monitoring shall include all aspects of operation and maintenance which may affect the quality of the water supply. The department may adopt rules and regulations relating to operation and maintenance of public water systems to insure the purity of water and the protection of public health. Such rules and regulations may apply to all aspects of operation and maintenance which may affect the quality of water supplied to the public, including feasible purification methods, equipment and systems. The department may require, by rule or regulation, any public water system to submit water samples for analysis on a regular basis, as often as necessary to insure the public health. Records of operation and maintenance of public water systems shall be kept on forms approved or specified by the department and this data shall be submitted to the department at the times and in the manner as the department directs. The supplier of water shall promptly comply with such department directions.

[PL 1975, c. 751, §4 (NEW).]

**3. Inspection.** Any officer or employee duly designated by the commissioner, upon presenting appropriate credentials and a written notice of the officer's or employee's authority to inspect, signed by the commissioner, is authorized to enter any part of a public water system in order to determine whether such supplier is complying with this chapter and any departmental rules or orders issued hereunder. The inspection may include any portion of a public water system, including the sources of supply, treatment facilities and materials, pumping facilities, distribution and storage facilities, records, files and reports on operation. The inspection may also include the testing of any portion of a public water system affecting water quality, including raw and processed water, and the taking of any samples necessary to insure compliance with this chapter and the rules or orders issued hereunder. Each inspection must take place at a reasonable time and be commenced and completed with reasonable promptness. The supplier must be promptly notified of the results of the inspection.

[RR 2021, c. 2, Pt. B, §129 (COR).]

**4. Engineering studies.** The commissioner may order a public water supplier to carry out an engineering study of the water works system or any portion thereof, if such study is required to identify potential threats to the public health and remedies that will remove such threats. The purpose of such study shall be to ascertain the best methods of complying with this chapter and departmental rules and regulations. The department may further order a public water system to implement the feasible recommendations of the study required to protect the public health. Prior to issuing any order under this subsection, this commissioner shall provide written notice to the public water system and public notice in a newspaper of general circulation in the area served by the public water system, and shall also provide the opportunity for a public hearing on the proposed order.

[PL 1975, c. 751, §4 (NEW).]

**5. Cross connections.** The department may adopt and enforce regulations governing the connection of any public water systems to any pipes, facilities or structures that carry, store or distribute water that has not been analyzed for compliance or cannot comply with the State Primary Drinking Water Standards, or any connection that may introduce contamination into the system, in order to protect the system from contamination.

[PL 1975, c. 751, §4 (NEW).]

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

[PL 1975, c. 751, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1999, c. 761, §2 (AMD). RR 2021, c. 2, Pt. B, §129 (COR).

#### §2612-A. Capacity development

**1. Authority.** The commissioner is authorized to ensure that all new community water systems and new nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity with respect to each state primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

[PL 1997, c. 705, §2 (NEW).]

**2. Rulemaking.** The commissioner shall adopt rules to ensure that all new community water systems and new nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial and financial capacity with respect to each state primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 705, §2 (NEW).]

#### SECTION HISTORY

PL 1997, c. 705, §2 (NEW).

#### §2613. Variances and exemptions

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

A. Because of the characteristics of the raw water sources reasonably available to the systems, the system can not meet the maximum contaminant levels of the drinking water regulation despite application of the best technology, treatment techniques or other means; or [PL 1995, c. 622, §1 (AMD).]

B. Where a specified treatment technique for a contaminant is required by the state primary drinking water regulation, the system demonstrates to the commissioner's satisfaction that the treatment technique is not required to protect the public health because of the nature of the raw water source. [PL 1995, c. 622, §1 (AMD).]

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

A variance may be issued to a system on the condition that the system install the best technology, treatment techniques or other means that are available, taking costs into consideration, according to the United States Environmental Protection Agency and based upon an evaluation satisfactory to the commissioner that indicates that alternative sources of water are not reasonably available to the system. [PL 1997, c. 705, §3 (AMD).]

**1-A. Small system variances.** The commissioner may grant a variance for compliance with a requirement specifying a maximum contaminant level or treatment technique contained in a state primary drinking water regulation to public water systems serving 3,300 or fewer persons. With the approval of the Administrator of the United States Environmental Protection Agency, the commissioner may grant a variance under this subsection to a public water system serving more than 3,300 persons but fewer than 10,000 persons.

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

[PL 1997, c. 705, §4 (NEW).]

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

A. The exemption will not result in an unreasonable risk to the public health; [PL 1975, c. 751, §4 (NEW).]

B. The public water system is unable to comply with the regulation or to implement measures to develop an alternative source of water supply due to compelling factors, which may include economic factors such as qualification of the public water system serving a disadvantaged community. For purposes of this paragraph "disadvantaged community" means the service area of a public water system that meets affordability criteria established by the department after public review and comment; [PL 1997, c. 705, §5 (AMD).]

C. The public water system was in operation on the earliest effective date under present or prior law of the contaminant level or treatment technique requirement; and [PL 1997, c. 705, §5 (AMD).]

D. Management or restructuring changes can not reasonably be made that will result in compliance with this chapter or, if compliance can not be achieved, improve the quality of the drinking water. [PL 1997, c. 705, §5 (NEW).]

Prior to implementation of a schedule for compliance with contaminant level or treatment technique requirements and for implementation of control measures, the commissioner shall provide notice and opportunity for public hearing pursuant to the requirements of the Maine Administrative Procedure Act. Each exemption must also be conditioned on monitoring, testing, analyzing or other requirements to ensure the protection of the public health and must include a compliance schedule, including increments of progress or measures to develop an alternative source of water supply, under which the public water system will meet each contaminant level for which an exemption is granted as expeditiously as is feasible.

[PL 1997, c. 705, §5 (AMD).]

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

A. The distiller must be inspected annually by the Department of Agriculture, Conservation and Forestry; and [PL 1991, c. 113 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

B. A bacteriological sample of the distilled water must be submitted to the Department of Health and Human Services at least every 3 months. If the distiller has a one-year history of no coliform

bacteria contamination, the Department of Health and Human Services may reduce the frequency of sampling to one sample per year. [PL 1991, c. 113 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

[PL 1991, c. 113 (NEW); PL 2003, c. 689, Pt. B, §6 (REV); PL 2011, c. 657, Pt. W, §5 (REV).]

**3-A. Exemption criteria.** An exemption described in subsection 2 may not be granted unless:

A. The public water system can not meet the standards without capital improvements that can not be completed within the period of the exemption; [PL 1997, c. 705, §6 (NEW).]

B. In the case of a public water system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance or assistance pursuant to the state revolving loan fund program or any other federal or state program that is reasonably likely to be available within the period of the exemption; or [PL 1997, c. 705, §6 (NEW).]

C. The public water system has entered into an enforceable agreement to become part of a regional public water system and the system is taking practicable steps to meet the standards. [PL 1997, c. 705, §6 (NEW).]

[PL 1997, c. 705, §6 (NEW).]

**4. Exemption; extended.** The exemption described in subsection 2 is effective for up to one year after the date of the issuance of the exemption.

A. The final date for compliance provided in any schedule in an exemption may be extended for a period not to exceed 3 years after the date of the issuance of the exemption. [PL 1997, c. 705, §7 (AMD).]

B. In the case of a system that does not serve more than 3,300 people and that needs financial assistance for the necessary improvements, an exemption granted may be renewed for one to 3 additional 2-year periods, but may not exceed a total of 6 additional years, if the system establishes that it is taking all practicable steps to meet the requirements established in the exemption. [PL 1997, c. 705, §7 (AMD).]

[PL 1997, c. 705, §7 (AMD).]

A public water system may not receive an exemption under this section if the system was granted a variance under subsection 1-A. [PL 1997, c. 705, §8 (NEW).]

## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1979, c. 541, §§B28,29 (AMD). PL 1991, c. 113 (AMD). PL 1995, c. 622, §§1-3 (AMD). PL 1997, c. 705, §§3-8 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 657, Pt. W, §5 (REV).

### §2614. Imminent hazards to public health

**1. Determination of imminent hazard.** An imminent hazard shall be considered to exist when there is a violation of the state primary drinking water regulations, or when, in the judgment of the commissioner, a condition exists in a public water system or water supply which will cause a violation and will result in a serious risk to public health.

[PL 1975, c. 751, §4 (NEW).]

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

A. The prohibition of transportation, sale, distribution or supplying of water; [PL 1975, c. 751, §4 (NEW).]

- B. The repair, installation or operation of feasible purification equipment or methods; [PL 1975, c. 751, §4 (NEW).]
- C. The notification of all potential users of the system, including travelers, of the nature, extent and possible health effects of the imminent hazard and precautions to be taken by users; or [PL 1975, c. 751, §4 (NEW).]
- D. The testing, sampling or other analytical operations required to determine the nature, extent, duration or termination of the imminent hazard. [PL 1975, c. 751, §4 (NEW).]

A copy of the emergency order shall be served in the same manner as the service of notice of the commencement of a civil action in Superior Court. An emergency order issued by the commissioner shall be effective immediately and shall be binding for no more than 90 days unless sooner revoked, reviewed by the department at a public hearing or modified or rescinded by a Superior Court. At the written request of the supplier of water, a public hearing shall be held on the emergency order within 15 days of receipt of such request.  
[PL 1975, c. 751, §4 (NEW).]

**3. Boil-water order.** For the purposes of this section and section 2615, "boil-water order" means an order issued by the commissioner to protect the health of persons consuming water from a public water system that may be contaminated by pathogenic microorganisms.

The boil-water order may immediately require the supplier of water to complete public notification of the threat to public health pursuant to section 2615.

A boil-water order may be issued when, in the judgment of the commissioner, a threat to the public health may exist from the presence of pathogenic microorganisms in a public water system. A boil-water order may be issued without a prior public hearing and served on the supplier of water by personal service, certified mail or by any other method if receipt is acknowledged by the supplier of water. At the written request of a supplier of water, a public hearing must be held on the boil-water order within 15 days of the receipt of the request.  
[PL 1995, c. 622, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1995, c. 622, §4 (AMD).

#### §2615. Notification of noncompliance to regulatory agencies and users

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

- A. Is not in compliance with a state drinking water rule; [PL 1995, c. 622, §5 (RPR).]
- B. Fails to perform monitoring, testing or analyzing or fails to provide samples as required by departmental rules; [PL 1995, c. 622, §5 (RPR).]
- C. Is subject to a variance or an exemption granted under section 2613; or [PL 1995, c. 622, §5 (RPR).]
- D. Is not in compliance with the terms of a variance or an exemption granted under section 2613.  
[PL 1995, c. 622, §5 (RPR).]
- E. [PL 1995, c. 622, §5 (RP).]

Public notification under this section must be provided concurrently to the system's local health officer and to the department. When required by law, the department shall forward a copy of the notification to the Administrator of the United States Environmental Protection Agency. The department may

require notification to a public water system's individual customers by mail delivery or by hand delivery within a reasonable time, but not earlier than required under federal laws.

[PL 2001, c. 574, §14 (AMD).]

**2. Certain uses of notification prohibited.** Notification received pursuant to this section or information obtained by the exploitation of such notification shall not be used against any person or system providing such notice in any criminal case, except for prosecutions for perjury or the giving of a false statement.

[PL 1975, c. 751, §4 (NEW).]

**3. Form of notification.** In addition to the notification required under subsection 1, a public water system shall provide public notification pursuant to the requirements in 40 Code of Federal Regulations, Parts 141 to 143 (2001).

A. [PL 2001, c. 574, §15 (RP).]

B. [PL 2001, c. 574, §15 (RP).]

[PL 2001, c. 574, §15 (AMD).]

**4. Additional time of notification.** A public water system shall provide public notification pursuant to subsection 3:

A. When a boil-water order is properly issued to a public water system under section 2614, subsection 3, within 24 hours. [PL 2001, c. 574, §15 (AMD).]

B. [PL 2001, c. 574, §15 (RP).]

C. [PL 2001, c. 574, §15 (RP).]

D. [PL 2001, c. 574, §15 (RP).]

E. [PL 2001, c. 574, §15 (RP).]

F. [PL 2001, c. 574, §15 (RP).]

[PL 2001, c. 574, §15 (AMD).]

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

[PL 1995, c. 622, §6 (NEW).]

## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1995, c. 622, §§5,6 (AMD). PL 2001, c. 574, §§14,15 (AMD).

### §2615-A. Consumer confidence reports

**1. Annual reports to customers.** The commissioner shall require each community water system, as defined in section 2660-B, subsection 2, to prepare and provide to each customer of the system at least once annually a consumer confidence report, which must include, but is not limited to, the source of drinking water and potential contamination sources, the level of detected regulated contaminants and detected unregulated contaminants for which monitoring is required by the primacy agency, the health risks associated with detected contaminants, the status and notice of public input in the renewal of variances or exemptions, the nature of applicable compliance violations, including remedial action, and access to additional information from the community water system and the United States Environmental Protection Agency's safe drinking water hotline.

[PL 1999, c. 77, §1 (NEW).]

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

[PL 1999, c. 77, §1 (NEW).]

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

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

[PL 1999, c. 77, §1 (NEW).]

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

[PL 1999, c. 77, §1 (NEW).]

#### SECTION HISTORY

PL 1999, c. 77, §1 (NEW).

#### §2616. Prohibited acts

The following acts and the causing thereof are prohibited: [PL 1975, c. 751, §4 (NEW).]

**1. Failure to comply with section 2615 or dissemination of certain misleading information.** Failure by a supplier of water to comply with the requirements of section 2615, or dissemination by such supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with state primary drinking water regulations;

[PL 1975, c. 751, §4 (NEW).]

**2. Failure to comply with regulations and actions under sections 2611, 2612, 2613 and 2614.** Failure by a supplier of water to comply with the regulations for water quality, monitoring, maintenance, operations, reporting and corrective actions pursuant to sections 2611, 2612, 2613 and 2614; and

[PL 1975, c. 751, §4 (NEW).]

**3. Refusal to allow entry under section 2612.** The refusal of a supplier of water to allow entry and inspection of establishments, facilities or other property pursuant to section 2612.

[PL 1975, c. 751, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW).

#### §2617. Penalties and remedies

**1. Violation of section 2616 or subchapter VII.** A person that violates section 2616 or subchapter VII commits a civil violation for which a penalty not to exceed \$5,000 may be adjudged. Each day of operation in violation of section 2616 or subchapter VII constitutes a separate violation. The District Court or the Superior Court has jurisdiction over violations of section 2616 or subchapter VII.

[RR 1993, c. 2, §13 (COR).]

**2. Injunctive relief.** The commissioner may commence or cause to be instituted a civil action in the Superior Court of either Kennebec County or of the county in which the principal place of business of the supplier of water is located, to convict and punish a person under subsection 1, to seek injunctive



relief to prevent the violation of any rule or regulation issued pursuant to this chapter, to prevent the violation of any order issued pursuant to sections 2612, 2613 or 2614, or to require a public water system or supplier of water to take other action necessary to protect the public health, with or without a prior order from the commissioner or department.

[PL 1975, c. 751, §4 (NEW).]

**3. Administrative remedies.** The commissioner may seek and impose administrative remedies as provided in subchapter II-A for a violation of state drinking water laws, regulations and rules.

[PL 1993, c. 678, §3 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1979, c. 60 (AMD). PL 1993, c. 410, §DD3 (AMD). PL 1993, c. 678, §§2,3 (AMD). RR 1993, c. 2, §13 (COR).

### SUBCHAPTER 2-A

#### SAFE DRINKING WATER ADMINISTRATIVE ENFORCEMENT

##### §2618. General authorization

In accordance with the process outlined in section 2619, the commissioner may impose one or more of the administrative remedies provided in this subchapter when a violation of this chapter, or rules adopted pursuant to this chapter, occurs or if the commissioner determines that administrative remedies are necessary and appropriate to ensure compliance with state drinking water laws, regulations and rules. [PL 1993, c. 678, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 678, §4 (NEW).

##### §2619. Administrative remedy process

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

A. Identification of the violation; [PL 1993, c. 678, §4 (NEW).]

B. A compliance deadline; and [PL 1993, c. 678, §4 (NEW).]

C. The possible consequences of noncompliance if the requirements of the notice are not met by the specified date. [PL 1993, c. 678, §4 (NEW).]

[PL 1993, c. 678, §4 (NEW).]

**2. Administrative consent order.** If the public water system has failed to correct the violation as specified in the notice of noncompliance by the date specified in the notice, the commissioner and the public water system shall make a good faith effort to agree upon a settlement and, if agreement is reached, the commissioner shall issue an administrative consent order. An administrative consent order may not be changed without written 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 2617.

[PL 1993, c. 678, §4 (NEW).]

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

[PL 1993, c. 678, §4 (NEW).]

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

- A. Identification of the violation for which it is issued; [PL 1993, c. 678, §4 (NEW).]
- B. A citation of the law, rule or order being violated; [PL 1993, c. 678, §4 (NEW).]
- C. The amount of the penalty; [PL 1993, c. 678, §4 (NEW).]
- D. Notice of the right to an adjudicatory hearing pursuant to the Maine Administrative Procedure Act; and [PL 1993, c. 678, §4 (NEW).]
- E. The procedure for paying the penalty. [PL 1993, c. 678, §4 (NEW).]

[PL 1993, c. 678, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 678, §4 (NEW).

#### §2620. Provisions governing administrative penalties

Administrative penalties imposed under this subchapter are governed by the following provisions. [PL 1993, c. 678, §4 (NEW).]

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

[PL 1997, c. 705, §9 (AMD).]

**2. Schedule of penalties.** The commissioner shall adopt rules in accordance with Title 5, chapter 375 establishing a schedule of administrative penalties. Factors that may be considered include but are not limited to:

- A. The nature and duration of the violation; [PL 1993, c. 678, §4 (NEW).]
- B. The level of assessment necessary to ensure immediate and continued compliance; [PL 1993, c. 678, §4 (NEW).]
- C. Whether steps were taken by the public water system to prevent the violation; [PL 1993, c. 678, §4 (NEW).]
- D. Whether steps were taken by the public water system to remediate or mitigate damage resulting from the violation; [PL 1993, c. 678, §4 (NEW).]
- E. Whether the public water system has a history of violations; [PL 1993, c. 678, §4 (NEW).]

F. The financial condition of the public water system; [PL 1993, c. 678, §4 (NEW).]

G. Whether or not compliance is less costly than committing the violation; [PL 1993, c. 678, §4 (NEW).]

H. Deterrence of future noncompliance; and [PL 1993, c. 678, §4 (NEW).]

I. The best interest of the public. [PL 1993, c. 678, §4 (NEW).]  
[PL 1993, c. 678, §4 (NEW).]

**3. Payment of penalty.** Administrative penalties must be paid within 30 days of the issuance of notice of administrative penalty or, if appealed, within 30 days of the appeal decision. The commissioner shall deposit administrative penalties received into the Public Drinking Water Fund established in section 2660-F.

[PL 1993, c. 678, §4 (NEW).]

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

[PL 1993, c. 678, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 678, §4 (NEW). PL 1997, c. 705, §9 (AMD).

#### §2620-A. Appeals

Appeal of actions authorized under this section is governed by the following. [PL 1993, c. 678, §4 (NEW).]

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

[PL 1993, c. 678, §4 (NEW).]

**2. Effect on penalties.** A public water system has 30 days from the date an administrative penalty is issued against it to pay the full amount of the penalty or to file a request for a hearing with the commissioner. If the public water system waives the right to or fails to request a hearing within 30 days, the administrative penalty is considered final. If a request for a hearing is filed within the 30 days, the following provisions apply.

A. Violations or penalties do not accrue from the date that the public water system files the request for a hearing to the date the hearing officer renders a decision. [PL 1993, c. 678, §4 (NEW).]

B. Notwithstanding paragraph A, if the hearing officer finds that the appeal is frivolous, the violations or penalties accrue throughout the appeal period. [PL 1993, c. 678, §4 (NEW).]

C. If an administrative hearing is held and a penalty is assessed at the conclusion of that hearing, the penalty becomes final 30 days after the decision. [PL 1993, c. 678, §4 (NEW).]

[PL 1993, c. 678, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 678, §4 (NEW).

#### §2620-B. Exception

Notwithstanding section 2619, if a violation poses a serious risk to public health, the commissioner may issue an administrative compliance order immediately without having issued a notice of noncompliance or having attempted to negotiate an administrative consent order. [PL 1993, c. 678, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 678, §4 (NEW).

#### §2620-C. Rules

The commissioner shall adopt rules establishing procedures regarding notice and the issuance, amendment and withdrawal of administrative compliance orders and administrative consent orders. [PL 1993, c. 678, §4 (NEW).]

The commissioner may adopt rules establishing a permitting process for public water systems. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1997, c. 705, §10 (NEW).]

#### SECTION HISTORY

PL 1993, c. 678, §4 (NEW). PL 1997, c. 705, §10 (AMD).

### SUBCHAPTER 3

#### LICENSURE OF OPERATORS

#### §2621. Definitions

As used in this subchapter, unless the context otherwise indicates, the following words have the following meanings. [PL 1983, c. 819, Pt. A, §55 (AMD).]

##### 1. Board.

[PL 1993, c. 360, Pt. E, §3 (RP).]

##### 1-A. Board. "Board" means the Board of Licensure of Water System Operators.

[PL 2003, c. 33, §2 (AMD).]

2. License. "License" means a license issued by the board stating that the applicant has met the requirements for the specified operator classification.

[PL 2003, c. 33, §3 (AMD).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1983, c. 819, §A55 (AMD). PL 1985, c. 748, §25 (AMD). PL 1993, c. 360, §E3 (AMD). PL 1999, c. 688, §2 (AMD). PL 2003, c. 33, §§2,3 (AMD).

#### §2622. Classification of public water systems and parts thereof

The board, with the advice of the department, shall classify all community public water systems, all nontransient, noncommunity public water systems, all public water systems utilizing surface water and the water treatment plants or collection, treatment, distribution or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions. [PL 2011, c. 45, §1 (AMD).]

The board, with the advice of the department, shall establish the criteria and conditions for the classification of public water systems and water treatment plants or collection, treatment or storage facilities or structures that are part of a system. [PL 1997, c. 705, §11 (AMD).]

The commissioner, with the advice of the board, may establish classes of public water supply systems that do not require licensed individuals as operators. [PL 1997, c. 705, §11 (AMD).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1983, c. 819, §A55 (AMD). PL 1997, c. 705, §11 (AMD). PL 1999, c. 688, §3 (AMD). PL 2001, c. 471, §D20 (AMD). PL 2003, c. 33, §4 (AMD). PL 2011, c. 45, §1 (AMD).

#### §2623. Applicability

It is unlawful for any person to perform the duties of an operator, as defined, without being duly licensed under this subchapter, except as provided in section 2630. [PL 1983, c. 819, Pt. A, §55 (AMD).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1983, c. 819, §A55 (AMD).

#### §2624. Advisory Board of Licensure

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1979, c. 178, §1 (AMD). PL 1983, c. 819, §A55 (AMD). PL 1985, c. 295, §§35,36 (AMD). PL 1985, c. 748, §26 (AMD). PL 1991, c. 622, §S29 (RP).

#### §2624-A. Board of Licensure of Water System Operators

The Board of Licensure of Water System Operators, referred to in this section as the "board," is established within the department pursuant to Title 5, chapter 379. [PL 2003, c. 33, §5 (AMD).]

**1. Membership; general qualifications.** The board consists of 9 members appointed by the Governor as follows: 3 water treatment or water distribution system operators, one holding a Class II license, one holding a Class III license and one holding a Class IV license; one member of the public who is a registered professional engineer; one person who is an educator in the field of water supply or service; one person who is a water management representative; one person who represents a "very small water system," as that term is defined in rules of the board; one person who is an owner or manager of a nontransient, noncommunity public water system; and one person from the department, as the commissioner may recommend, subject to appointment by the Governor. [PL 2003, c. 33, §5 (AMD).]

**2. Terms.** Each member of the board is appointed for a 3-year term. The appointee from the department serves at the pleasure of the Governor. The commissioner may recommend to the Governor at any time that the appointee from the department be replaced. Vacancies must be filled by appointment of the Governor for all unexpired terms. [PL 2003, c. 33, §5 (AMD).]

**3. Chair; secretary.** Members of the board shall elect from among the members a chair at the first meeting of each year. Members shall also elect from among the members a secretary who is responsible for maintaining records and providing administrative support. [PL 1995, c. 442, §2 (NEW).]

**4. Call of meetings.** Meetings of the board may be called by the chair, or by the chair at the request of any other 2 members, as necessary to carry out this chapter. [PL 1995, c. 442, §2 (NEW).]

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

[PL 1995, c. 442, §2 (NEW).]

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

A. The board shall license persons to serve as operators of all or part of any public water system in the State. [PL 2011, c. 45, §2 (AMD).]

B. The board shall design or approve and hold at least one examination each year at a time and place designated for the purpose of examining candidates for licensure. The board may accept results of examinations approved by the board administered by a 3rd party, whose fees are not governed by section 2629. [PL 2011, c. 45, §2 (AMD).]

C. The board may enter into contracts or agreements to carry out its responsibilities under this section. [PL 2011, c. 45, §2 (AMD).]

[PL 2011, c. 45, §2 (AMD).]

**7. Fund.** The Board of Licensure of Water System Operators Fund is established and is governed by the following provisions.

A. All money collected by the board in the form of application fees, reinstatement and renewal fees, expense reimbursements ordered by the board or payment for services such as reproduction and distribution of copies of board decisions and photocopying or for the use of facilities must be deposited with the Treasurer of State in a separate account to be known as the Board of Licensure of Water System Operators Fund. [PL 2003, c. 33, §5 (AMD).]

B. The board may use the fund to defray the reasonable costs incurred by the board in carrying out its duties. [PL 1995, c. 442, §2 (NEW).]

C. Except as specified in this paragraph, any amount within the fund that is not expended at the end of a fiscal year does not lapse, but is carried forward to be expended by the 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. [PL 1995, c. 442, §2 (NEW).]

[PL 2003, c. 33, §5 (AMD).]

**8. Records.** The board shall keep all records and minutes 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. [PL 1995, c. 442, §2 (NEW).]

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

[PL 1995, c. 442, §2 (NEW).]

**10. Staff.** The commissioner, to the extent possible and reasonable, shall make available to the board such staff, facilities, equipment, supplies, information and other assistance as the board may reasonably require to carry out its activities. The commissioner may also appoint, subject to the Civil Service 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. [PL 1995, c. 442, §2 (NEW).]

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

[PL 1995, c. 442, §2 (NEW).]

**SECTION HISTORY**

PL 1995, c. 442, §2 (NEW). PL 1999, c. 688, §4 (AMD). PL 2001, c. 471, §D21 (AMD). PL 2003, c. 33, §5 (AMD). PL 2011, c. 45, §2 (AMD).

**§2625. Licenses**

The Board of Licensure of Water System Operators shall issue biennial licenses to individuals to act as operators. The license must indicate the classification level of the systems or parts of systems for the operation of which the individual is qualified to act as an operator. [PL 2003, c. 33, §6 (AMD).]

The board may suspend or revoke a license of a certified operator when it is determined that the operator has practiced fraud or deception; that the operator has been negligent in that reasonable care, judgment or the application of knowledge or ability was not used in the performance of the operator's duties; or that the operator is incompetent or unable to perform the operator's duties properly. [PL 1999, c. 688, §5 (AMD).]

This chapter may not be construed to affect or prevent the practices of any other legally recognized profession. [RR 2017, c. 1, §14 (COR).]

When the unexpired term of license of an applicant is or will be more than one year at the time of licensure, the commissioner may require the applicant to pay an additional fee not to exceed 1/2 the biennial license fee. [PL 1985, c. 748, §27 (AMD).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1977, c. 694, §365 (RPR). PL 1983, c. 819, §A55 (AMD). PL 1985, c. 748, §27 (AMD). PL 1995, c. 442, §§3-5 (AMD). PL 1999, c. 688, §5 (AMD). PL 2003, c. 33, §6 (AMD). RR 2017, c. 1, §14 (COR).

**§2625-A. Renewals**

All licenses expire on December 31st of each biennial period and may be renewed thereafter for 2-year periods without further examination, upon the payment of the proper renewal fee as set forth in the rules. A person who fails to renew that person's license within 2 years following the expiration of the license must take an examination as a condition of licensure. [PL 2011, c. 45, §3 (AMD).]

The Board of Licensure of Water System Operators shall notify a person registered under this subchapter of the date of expiration of that person's license and 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 days in advance of the expiration date of that person's license. [PL 2003, c. 33, §7 (AMD).]

**SECTION HISTORY**

PL 1983, c. 819, §A55 (NEW). PL 1985, c. 748, §28 (AMD). PL 1995, c. 442, §6 (AMD). PL 2003, c. 33, §7 (AMD). PL 2011, c. 45, §3 (AMD).

**§2626. License from outside the State**

The Board of Licensure of Water System Operators, upon application for licensure, may issue a license without examination, in a comparable classification, to any person who holds a license in any state, territory or possession of the United States or any country, providing the requirements for licensure of operators under which the person's license was issued does not conflict with this chapter and, in the opinion of the board, are of a standard not lower than that specified by rules adopted under this chapter. [PL 2003, c. 33, §8 (AMD).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1983, c. 819, §A55 (AMD). PL 1985, c. 748, §29 (AMD). PL 1995, c. 442, §7 (AMD). PL 2003, c. 33, §8 (AMD).

**§2627. License from owner of particular system**

**(REPEALED)****SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1983, c. 819, §A55 (AMD). PL 1999, c. 688, §6 (RP).

**§2628. Rules**

The Board of Licensure of Water System Operators, in accordance with any other appropriate state laws, shall make such rules as are reasonably necessary to carry out the intent of this subchapter. The rules must include, but are not limited to, provisions establishing requirements for licensure and procedures for examination of candidates and such other provisions as are necessary for the administration of this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 45, §4 (AMD).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1983, c. 819, §A55 (AMD). PL 1985, c. 748, §29 (AMD). PL 1995, c. 442, §7 (AMD). PL 2003, c. 33, §9 (AMD). PL 2011, c. 45, §4 (AMD).

**§2629. Fees**

The Board of Licensure of Water System Operators shall establish by rule fees authorized pursuant to this subchapter. These fees may include examination, licensure, biennial renewal and reinstatement fees in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$95. Revenues derived from applicants failing the examination must be retained. [PL 2011, c. 45, §5 (AMD).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1979, c. 178, §2 (RPR). PL 1983, c. 819, §A55 (AMD). PL 1985, c. 748, §29 (AMD). PL 1995, c. 442, §7 (AMD). PL 2003, c. 33, §10 (AMD). PL 2011, c. 45, §5 (AMD).

**§2630. Licensure**

If a public water system loses its licensed operator, it shall secure a new licensed operator or enter into a contractual agreement with a licensed operator of proper classification until a new operator has been employed for that public water system. [PL 2003, c. 33, §11 (AMD).]

**SECTION HISTORY**

PL 1975, c. 751, §4 (NEW). PL 1979, c. 178, §3 (AMD). PL 1983, c. 819, §A55 (AMD). PL 1995, c. 442, §8 (AMD). PL 1999, c. 688, §7 (AMD). PL 2003, c. 33, §11 (AMD).

**§2631. Violations**

**1. Violation.** Any person violating any provision of this subchapter or the rules and regulations adopted under this subchapter, commits a civil violation for which a forfeiture of not more than \$500 may be adjudged. Each day of operation in violation of this subchapter or any rules and regulations adopted under this subchapter shall constitute a separate violation. [PL 1979, c. 178, §4 (NEW).]

**2. Injunctive relief.** The commissioner may commence or cause to be instituted a civil action in the Superior Court under subsection 1, to seek injunctive relief to prevent the violation of this subchapter, to prevent the violation of any rule or regulation issued pursuant to this subchapter or to require a public water system or supplier of water to take other action necessary to comply with this subchapter, with or without a prior order from the commissioner or department. [PL 1979, c. 178, §4 (NEW).]

In addition to the county in which the principal place of business of the supplier of water is located, the action may be instituted in the Superior Court of Kennebec County. [PL 1979, c. 178, §4 (RPR).]



## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1979, c. 178, §4 (RPR).

## SUBCHAPTER 4

## PUBLIC WATER SUPPLIES

## ARTICLE 1

## MUNICIPAL REGULATIONS

**§2641. Source of public water supply defined**

As used in this subchapter, unless the context otherwise indicates, "public water source" means any natural or human-made impoundment, pond or lake or ground water aquifer whose waters are transported or delivered by a public water system, as defined in section 2601, subsection 8. Where the intake of a public water supply is on the outlet of any impoundment, pond or lake, the source of the public water supply is considered to be the impoundment, pond or lake itself. [RR 2021, c. 2, Pt. B, §130 (COR).]

## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1979, c. 472, §4 (AMD). PL 1983, c. 785, §4 (RPR). RR 2021, c. 2, Pt. B, §130 (COR).

**§2642. 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 sources of public water supply, portions thereof or land overlying ground water aquifers and their recharge areas used as sources of public water supply that are located within that municipality in order to protect the quality of such sources of public water supply and the health, safety and welfare of persons dependent upon such supplies.

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 source of public water supply within that municipality. Regulations adopted pursuant to this section become void upon the expiration of one year from the date of the adoption unless sooner ratified by vote of the legislative body of the municipality. [PL 1995, c. 664, §1 (AMD).]

**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. [PL 1991, c. 824, Pt. A, §41 (AMD).]

## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1979, c. 472, §5 (AMD). PL 1985, c. 479, §1 (AMD). PL 1987, c. 192, §2 (AMD). PL 1991, c. 824, §A41 (AMD). PL 1995, c. 664, §1 (AMD).

## ARTICLE 2

## PROTECTION OF WATER SOURCES

**§2646. Definitions****(REPEALED)**

## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1983, c. 785, §5 (RP).

**§2647. Protection of public water source****(REPEALED)**

## SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1977, c. 694, §366 (AMD). PL 1983, c. 785, §6 (AMD). PL 1991, c. 467, §1 (RP).

**§2647-A. Protection of public water source**

Any water utility or municipality and the department are authorized to take reasonable steps to protect a public water source from pollution consistent with section 2642. [PL 1999, c. 761, Pt. 3 (AMD).]

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

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

**5. Remedy ordered by water district or consumer-owned utility.** If the municipal officers have failed to act on a malfunctioning wastewater disposal unit under Title 30-A, section 3428 and have notified a consumer-owned water utility as defined in Title 35-A, section 6101 in writing of their failure to do so, the consumer-owned water utility may assume the rights of municipal officers under Title

30-A, section 3428, except that it may not assess a special tax under Title 30-A, section 3428, subsection 4, paragraph B.

[PL 1991, c. 467, §2 (NEW).]

**6. Effect on other law.** Nothing in this section may be construed to limit in any way any private and special or other law granting a water utility or municipality greater controls for protecting its public water source than those set forth in this section.

[PL 1991, c. 467, §2 (NEW).]

#### SECTION HISTORY

PL 1991, c. 467, §2 (NEW). PL 1999, c. 761, §3 (AMD).

#### §2648. Protection of intake of public water supply

Any water utility or municipality is authorized, after consultation with the Commissioner of Inland Fisheries and Wildlife, the department and the Department of Agriculture, Conservation and Forestry and after conducting a public hearing in the affected town, to designate by buoys in water or markers on the ice in an area on a lake or pond from which water is taken, with a radius commencing at its point of intake. The radius may not exceed 400 feet and within that area a person may not anchor or moor a boat or carry on ice fishing or carry on any other activity designated by the water utility or municipality when such restriction is necessary to comply with primary or secondary drinking water regulations applicable to public water systems. Any such buoys placed in the water must be plainly marked as required by the Director of the Bureau of Parks and Lands under Title 12, section 1894. Any person violating this section must, on conviction, be penalized in accordance with Title 30-A, section 4452. [PL 1999, c. 127, Pt. A, §36 (AMD); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

Nothing in this section shall be construed to limit in any way any private and special law granting a water utility or municipality greater controls for protecting the intake of its public water supply than those set forth in this section. [PL 1975, c. 751, §4 (NEW).]

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1987, c. 192, §3 (AMD). PL 1991, c. 824, Pt. A, §42 (AMD). PL 1995, c. 502, Pt. E, §30 (AMD). PL 1997, c. 739, §11 (AMD). PL 1999, c. 127, Pt. A, §36 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

#### §2649. Protection of public water supplies over winter

**1. Petition for rules.** Any water utility, water district or municipality which relies on surface water for its water supply may petition the Commissioner of Inland Fisheries and Wildlife to promulgate rules to regulate the size and range of motor vehicles which may be permitted on the ice of any reservoir or surface water which is used as a public water supply. The petitioner must supply the technical information in support of the decision. The commissioner shall promulgate only such rules as are reasonable and necessary to protect the public water supply. These rules shall be promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, after a public hearing in the affected area.

[PL 1987, c. 353, §1 (NEW).]

**2. Existing rules.** Any rules that are adopted must be at least as strict as those already in existence for that body of water. Nothing in this section may be construed to limit in any way the authority of the municipal officers to enact ordinances under Title 30-A, section 3009, subsection 1, paragraph E, or any private and special law granting a water utility or municipality greater control for protecting its public water supply than those set forth in this section.

[PL 1991, c. 824, Pt. B, §7 (AMD).]

**3. Violation.** Any violation of the rules promulgated under this section is a civil violation for which a forfeiture of not more than \$100 may be adjudged for each violation.

[PL 1987, c. 353, §1 (NEW).]

#### SECTION HISTORY

PL 1987, c. 353, §1 (NEW). PL 1991, c. 824, §B7 (AMD).

#### **§2649-A. State's impact on public water supply protection**

When undertaking actions that have a negative impact on a public water supply, a state agency shall consider the impact and evaluate alternatives to avoid and minimize the impact. [PL 2007, c. 353, §4 (NEW).]

#### SECTION HISTORY

PL 2007, c. 353, §4 (NEW).

#### **§2650. Source water quality assessment program**

**1. General authorization.** The commissioner is authorized to implement and carry out a source water quality assessment program.

[PL 1997, c. 705, §12 (NEW).]

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

[PL 1997, c. 705, §12 (NEW).]

#### SECTION HISTORY

PL 1997, c. 705, §12 (NEW).

## SUBCHAPTER 5

### FLUORIDATION

#### **§2651. Fluoridation**

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1983, c. 463, §1 (RP).

#### **§2651-A. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 463, §2 (NEW).]

**1. Multiservice municipality.** "Multiservice municipality" means any municipality served in whole or in part by more than one public water system.

[PL 1983, c. 463, §2 (NEW).]

**2. Multiple community water district.** "Multiple community water district" means that area comprising all municipalities served in whole or part by a single public water system plus those public water system zones within multiservice municipalities served by the same public water system.

[PL 1983, c. 463, §2 (NEW).]

**3. Multiple community water system district-wide election.** "Multiple community water system district-wide election" means an election held in each municipality within a multiple community water district to determine whether or not to fluoridate the water supply of that system.

[PL 1983, c. 463, §2 (NEW).]

**4. Municipality.** "Municipality" means a city, town or plantation.

[PL 1983, c. 463, §2 (NEW).]

**5. Public water system.** "Public water system" means the public water agency, company, utility, district or other entity serving one or more municipalities in whole or in part.

[PL 1983, c. 463, §2 (NEW).]

**6. Public water system zone.** "Public water system zone" means any one of the 2 or more areas of a multiservice municipality served by a single public water system, as further defined in section 2657.

[PL 1983, c. 463, §2 (NEW).]

**7. Registered petitioners.** "Registered petitioners" means those registered voters residing in a single community water district or, in the case of a multiple community water system district-wide election, those registered voters residing in the multiple community water district who have accepted the responsibility of receiving notice concerning the filing of petitions pursuant to section 2655, subsection 3.

[PL 1987, c. 122, §1 (AMD).]

**8. Single community water district.** "Single community water district" means a municipality served in whole or in part by a water system which serves no other municipalities.

[PL 1983, c. 463, §2 (NEW).]

**9. Single-service municipality.** "Single-service municipality" means any municipality served in whole or in part by a single public water system.

[PL 1983, c. 463, §2 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §2 (NEW). PL 1987, c. 122, §1 (AMD).

#### §2651-B. Fluoridation

No public water system may add any fluoride to its water supply without written approval of the department. [PL 1983, c. 463, §2 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §2 (NEW).

#### §2652. Authorization

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 751, §4 (NEW). PL 1983, c. 463, §3 (RP).

#### §2653. Authorization of fluoridation; general provisions

**1. Requirement for authorization.** No public water system may add any fluoride to any water supply without first having been authorized to do so by the affected single or multiple community water district served by it. Any public water system duly authorized to add fluoride to any water supply shall do so within 9 months after being notified in accordance with this section. The municipal clerk shall, within 10 days after the vote, notify the public water system of the vote favoring or not favoring the addition of fluoride to the public water supply.

[PL 1983, c. 463, §4 (NEW).]

**2. Form of question.** Any time the issue of whether to fluoridate a public water supply is submitted to voters, the question shall be phrased as follows: "Shall fluoride be added to the public water supply for the intended purpose of reducing tooth decay?"  
[PL 1983, c. 463, §4 (NEW).]

**3. Prohibition.** Whenever a single community water district has approved fluoridation, it may not again vote on the matter for a minimum period of 2 years from the date of installation of fluoride. Whenever a single community water district has disapproved fluoride, it may not vote again on the matter for a minimum period of 2 years. Whenever a multiple community water district has approved fluoridation, it may not vote again on the matter until the first general election after 2 years from the date of installation of fluoride. Whenever a multiple community water district disapproves fluoride, it may not vote again on the matter until the next general election.  
[PL 1983, c. 463, §4 (NEW).]

**4. Authorization not required.** The authorization required by subsection 1 shall not apply to any public water supply which receives or purchases less than 50% of its total annual water supply from another public water supply authorized to add fluoride to its water supply.  
[PL 1987, c. 122, §2 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §4 (NEW). PL 1987, c. 122, §2 (AMD).

#### §2654. Procedure for elections

**1. Single community water districts.** In a single community water district, the vote on the issue of fluoridation must be called by a majority vote of the municipal officers acting on their own initiative or pursuant to a petition meeting the requirements established for a referendum vote by the municipality's home rule charter or, if the municipality has no home rule charter, as provided by Title 30-A, section 2522.  
[PL 1991, c. 824, Pt. A, §43 (AMD).]

**2. Multiple community water districts.** In the case of a multiple community water district, authorization shall be by a majority vote of those voting at a multiple community water system district-wide election. A valid request for an election on whether or not to authorize the addition of fluoride may be made in either of the following ways.

A. A valid request for an election shall have been made when a majority of municipal officers, in a majority of municipalities within a multiple community water system district, vote to call an election. All such votes must be taken at least 90 days before the general election. Each voting municipality shall certify within 5 days to all other municipalities within the public water system district the results of its vote.

A multiple community water system district-wide election shall take place in each municipality within the district if, on the basis of the certificates, a majority of municipal officers within a majority of the municipalities in the district have called for an election. [PL 1987, c. 122, §4 (AMD).]

B. A valid request for election shall have been made when a number of registered voters within a multiple community water district equal to at least 10% of the total number of votes cast for Governor at the last gubernatorial election in all municipalities, wholly or partially within the multiple community water district, file a petition in accordance with section 2655. [PL 1987, c. 122, §4 (AMD).]

[PL 1987, c. 122, §4 (AMD).]

#### SECTION HISTORY

PL 1983, c. 463, §4 (NEW). PL 1987, c. 122, §§3,4 (AMD). PL 1991, c. 824, §A43 (AMD).

**§2655. Petitions in multiple community water districts**

Petitions for an election shall be governed by the following provisions. [PL 1983, c. 463, §4 (NEW).]

**1. Circulation.** Any time the issue of whether to fluoridate a public water supply is submitted to the voters in multiple community water districts pursuant to petition, the petition or petitions shall be circulated and signed in the manner prescribed by Title 30-A, section 2503, subsection 3, paragraph B, subparagraphs (2) and (3), and shall be dated and gathered within the time frame prescribed by the Constitution of Maine, Article IV, Part Third, Section 18, Subsection 2.

[PL 1987, c. 737, Pt. C, §§65, 106 (AMD); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §8, 10 (AMD).]

**2. Forms; instructions.** On request of a voter, the Secretary of State shall furnish petition forms to that voter within 10 days of the request. The Secretary of State may charge a reasonable fee for the petitions.

If a voter, at the voter's own expense, wishes to print and furnish the forms rather than have the forms printed and furnished by the Secretary of State, the voter may do so as long as these petition blanks are first approved by the Secretary of State as to form and content. The Secretary of State has 10 days in which to approve the forms. If the forms are found to be unsatisfactory, the Secretary of State shall indicate the manner in which the forms are deficient. Corrected petition forms may be submitted in accordance with the terms in this paragraph.

The Secretary of State shall prepare complete instructions to advise the signers, circulators, registered petitioners, municipal clerks and election officials as to any statutory and constitutional requirements. The instructions must specify the conditions which have been held to invalidate either individual signatures or complete petitions. The instructions must be printed in bold type or capital letters on the petition.

[RR 2021, c. 2, Pt. B, §131 (COR).]

**3. Signing; filing.** Petitions may be signed and filed as follows. In multiservice municipalities, petitions may be signed by any registered voter residing within the affected public water system zone of the municipality. All such petitions shall be filed with the appropriate municipality at least 120 days before the next general election. In each municipality in which petitions are filed, the petition or petitions shall be accompanied with the name and address of at least one, but not more than 5, registered voters who shall be the registered petitioners for the purpose of subsection 4. The registered petitioners must reside in the multiple community water district, but need not reside in the municipality in which a petition is filed.

A. [PL 1987, c. 122, §6 (RP).]

B. [PL 1987, c. 122, §6 (RP).]

[PL 1987, c. 122, §6 (RPR).]

**4. Certification.** Within 20 days after a petition is filed, the municipal clerk shall complete a certificate which states the number of valid signatures on the petition and identifies the relevant multiple community water district or districts involved. The certificate shall be sent by registered mail to the registered petitioners, who shall be responsible for transmitting them to the Secretary of State.

The Secretary of State shall total the number of valid signatures as certified by the municipal clerk. As soon as the total number of certified valid signatures is found to be equal to at least 10% of the total number of votes cast for Governor at the last gubernatorial election in all municipalities which are wholly or partially within the multiple community water district, the Secretary of State shall certify that fact to each municipality which is wholly or partially in the multiple community water district within 48 hours.

[PL 1983, c. 463, §4 (NEW).]

## SECTION HISTORY

PL 1983, c. 463, §4 (NEW). PL 1987, c. 122, §§5,6 (AMD). PL 1987, c. 737, §§C65,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). RR 2021, c. 2, Pt. B, §131 (COR).

**§2656. Elections in multiple community water districts**

**1. Multiple community water system district-wide elections.** In the case of public systems serving more than one municipality, in whole or in part, elections shall be held simultaneously in all municipalities served by the water system at the first general election following the certification of a request for an election on the issue of whether or not to fluoridate the water supply. Those eligible to vote shall be all registered voters within affected single-service municipalities and all registered voters within the affected public water system zone of multiservice municipalities. The following provisions apply to all multiple community water system district-wide elections.

A. Each municipality shall be responsible for posting a warrant according to the following requirements.

(1) It shall specify the voting place and the time of opening and closing of polls.

(2) It shall specify that the purpose of the election is to determine the following question: "Shall fluoride be added to the public water supply for the intended purpose of reducing tooth decay?"

(3) It shall specify that a public hearing will be held by the municipal officers of each municipality at least 10 days before the election date.

(4) It must be signed by a majority of the municipal officers of the municipality and directed personally to a constable or any resident ordering the constable or resident to announce the election.

(5) The person to whom the warrant is directed shall post an attested copy of it in a conspicuous public place in each voting district of the municipality at least 7 days immediately before the date of the public hearing. The person shall make a return on the warrant stating the manner of announcement and the time it was given and return the warrant to the municipal officers.

(6) The municipal officers shall then deliver the warrant to the clerk who shall record it. [RR 2021, c. 2, Pt. B, §§132, 133 (COR).]

B. Elections shall be held by secret preprinted ballots. [PL 1987, c. 122, §7 (NEW).]

C. Each municipality shall provide for absentee ballots in a manner which substantially complies with Title 21-A, chapter 9, subchapter IV. [PL 1987, c. 122, §7 (NEW).]  
[RR 2021, c. 2, Pt. B, §§132, 133 (COR).]

**1-A. Elections in single community water districts.** Elections in single community water districts shall be conducted in the same manner as other municipal elections.  
[PL 1987, c. 122, §8 (NEW).]

**2. Reporting election results.** Each municipal clerk shall certify in writing the results of the election within 72 hours of the vote to the Secretary of State. The results shall be certified as to the number of eligible voters voting in favor of fluoridation and the number of eligible voters voting in opposition to fluoridation. The municipality shall also certify to the Secretary of State the identity of the relevant public water district or districts involved.  
[PL 1983, c. 463, §4 (NEW).]

**3. Vote tabulation.** The Secretary of State shall, within 48 hours of receiving the last written certification, tabulate the votes from each municipality and immediately make public the results of the multiple community water system district-wide election by mailing to each affected municipality and



public water system the results of the election, including the submitted votes from that municipality and public water system zone and the total multiple community water system district-wide vote.

[PL 1983, c. 463, §4 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §4 (NEW). PL 1987, c. 122, §§7,8 (AMD). RR 2021, c. 2, Pt. B, §§132, 133 (COR).

#### §2657. Establishment of public water system zones

**1. Division into zones.** In order to facilitate elections in multiservice municipalities, each municipality shall divide itself into as many zones as there are public water services supplying the municipality. The zones shall be so structured as to insure that:

A. All residents served by a given public water service fall within the same zone; [PL 1983, c. 463, §4 (NEW).]

B. Each registered voter within the municipality is within one of the zones; and [PL 1983, c. 463, §4 (NEW).]

C. The size of the zone bears a rational relationship to the area of the municipality being served by a given public water system. [PL 1983, c. 463, §4 (NEW).]

[PL 1983, c. 463, §4 (NEW).]

**2. Map.** Upon request by a municipality, a public water system shall provide to the municipality within 14 days a map which clearly delineates the boundaries of the service area of the public water system and any other requested information reasonably necessary to enable the municipality to determine the precise area of service in the municipality of the public water system.

[PL 1983, c. 463, §4 (NEW).]

**3. Description; map; files.** Each multiservice municipality shall keep on file, as a public document, a precise description and accompanying map of its public water system zones.

[PL 1983, c. 463, §4 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §4 (NEW).

#### §2658. Allocation of costs

The Public Utilities Commission, upon application, shall determine and allocate the cost of fluoridation among the customers of a public water system and shall from time to time review that determination and allocation as required. In the event that a community water district which has approved fluoridation votes to discontinue fluoridation, the public water system may amortize the remaining cost of its investment in these facilities and allocate the cost of that amortization among its customers, over such period of time as is approved by the Public Utilities Commission. [PL 1983, c. 463, §4 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §4 (NEW).

#### §2659. Rules

The Department shall promulgate such rules, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, as it deems necessary to carry out the purposes of this subchapter, including, but not limited to, rules regarding the time and manner in which municipalities shall establish public water system zones. [PL 1983, c. 463, §4 (NEW).]

#### SECTION HISTORY

PL 1983, c. 463, §4 (NEW).

## SUBCHAPTER 6

### TRANSPORT OF WATER

#### §2660. Legislative findings

**(REPEALED)**

#### SECTION HISTORY

PL 1987, c. 531, §1 (NEW). PL 2007, c. 399, §3 (RP).

#### §2660-A. Restrictions on transport of water

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

[PL 2013, c. 381, Pt. B, §2 (AMD).]

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

A. Any water utility as defined in Title 35-A; [PL 1987, c. 745, §1 (NEW); PL 1987, c. 816, Pt. KK, §20 (NEW).]

B. Water transported for use in well drilling, construction activities, concrete mixing, swimming pool filling, servicing portable toilets, firefighting, hospital operations, aquaculture, agricultural applications or civil emergencies; [PL 1987, c. 745, §1 (NEW); PL 1987, c. 816, Pt. KK, §20 (NEW).]

C. Water distilled as a by-product of a manufacturing process; [PL 2007, c. 399, §4 (AMD).]

D. Water transported from a water source that, before July 1, 1987, was used to supply water for bottling and sale and that is used exclusively for bottling and is sold in its pure form or as a carbonated or flavored beverage product; and [PL 2007, c. 399, §4 (AMD).]

E. Water withdrawn pursuant to a permit issued by the Department of Environmental Protection or the Maine Land Use Planning Commission. [PL 2007, c. 399, §4 (NEW); PL 2011, c. 682, §38 (REV).]

[PL 2007, c. 399, §4 (AMD); PL 2011, c. 682, §38 (REV).]

**3. Appeal.** The commissioner, after consultation with the Public Utilities Commission, the Department of Environmental Protection and the State Geologist, may authorize transport of water for commercial purposes if the commissioner finds that:

A. Transport of the water will not constitute a threat to public health, safety or welfare; and [PL 2007, c. 399, §5 (AMD).]

B. [PL 2007, c. 399, §6 (RP).]

C. [PL 2007, c. 399, §7 (RP).]

D. For a source not otherwise permitted by the Department of Environmental Protection or the Maine Land Use Planning Commission, the water withdrawal will not have an undue adverse effect on waters of the State, as defined by Title 38, section 361-A, subsection 7; water-related natural resources; and existing uses, including, but not limited to, public or private wells, within the anticipated zone of contribution to the withdrawal. In making findings under this paragraph, the commissioner shall consider both the direct effects of the proposed water withdrawal and its effects

in combination with existing water withdrawals. [PL 2005, c. 452, Pt. A, §2 (AMD); PL 2011, c. 682, §38 (REV).]

Any authorization under this subsection is for a period not to exceed 3 years but may be renewed subject to the same criteria. The department may adopt rules necessary for the implementation of this subsection. The rules may include imposition of a fee to cover the costs of providing permits, including any impact studies required by the department. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 399, §§5-7 (AMD); PL 2011, c. 682, §38 (REV).]

**3-A. Conditions of authorization.** Notwithstanding Title 1, section 302, the exceptions authorized in subsection 2 and any authorization granted under subsection 3 shall be subject to future legislative limitations of the right to transport water. [PL 1987, c. 745, §2 (NEW); PL 1987, c. 816, Pt. KK, §21 (NEW).]

**4. Emergencies.** In case of an emergency, any person may transport water as necessary for the duration of the emergency, but the person transporting the water must inform the commissioner within 3 days and the commissioner may determine when the emergency is over. [PL 1987, c. 531, §1 (NEW).]

**5. Penalty.** Any person who transports water in violation of this section is guilty of illegal transport of water. Illegal transport of water is a Class D crime. Each shipment or day of transport, if by pipeline, is a separate offense. [PL 1987, c. 531, §1 (NEW).]

#### SECTION HISTORY

PL 1987, c. 531, §1 (NEW). PL 1987, c. 745, §§1,2 (AMD). PL 1987, c. 816, §§KK20, KK21 (AMD). PL 1989, c. 502, §B22 (AMD). PL 1997, c. 587, §2 (AMD). PL 2003, c. 121, §1 (AMD). PL 2005, c. 452, §A2 (AMD). PL 2007, c. 399, §§4-7 (AMD). PL 2011, c. 682, §38 (REV). PL 2013, c. 381, Pt. B, §2 (AMD).

## SUBCHAPTER 7

### MAINE PUBLIC DRINKING WATER COMMISSION

#### §2660-B. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

**1. Commission.** "Commission" means the Maine Public Drinking Water Commission. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

**2. Community water system.** "Community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

**3. Division.** "Division" means the Division of Health Engineering within the Bureau of Health, Department of Human Services. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

**4. Fund.** "Fund" means the Public Drinking Water Fund. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

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

A. A nontransient, noncommunity water system serves at least 25 of the same persons for 6 months or more per year and may include, but is not limited to, a school, factory, industrial park or office building. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

B. A transient, noncommunity water system serves at least 25 persons, but not necessarily the same persons, for at least 60 days per year and may include, but is not limited to, a highway rest stop, seasonal restaurant, seasonal motel, golf course, park or campground. A bottled water company is a transient, noncommunity water system. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

[PL 1993, c. 410, Pt. DD, §4 (NEW).]

**6. Program.** "Program" means the Maine Public Drinking Water Control Program. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

**7. Primacy.** "Primacy" means the federally delegated primary enforcement authority to adopt, implement and enforce federally mandated drinking water standards promulgated pursuant to the federal Safe Drinking Water Act as amended.

[PL 1993, c. 410, Pt. DD, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW).

#### §2660-C. Maine Public Drinking Water Commission

The Maine Public Drinking Water Commission as established by Title 5, section 12004-I, subsection 47-C, is created within the department. [PL 1995, c. 462, Pt. A, §42 (AMD).]

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

A. [PL 2001, c. 232, §1 (RP).]

A-1. Three of the members must represent the water purveying community and must be associated with public water systems. One of the 3 must be associated with a public water system serving a population of not more than 1,000 people, one must be associated with a public water system serving a population of at least 1,001 but not more than 10,000 people and one must be associated with a public water system serving a population greater than 10,000. [PL 2001, c. 232, §2 (NEW).]

A-2. Two members must be users of noncommunity water systems. One of the 2 must be a user of a transient noncommunity water system and one must be a user of a nontransient, noncommunity water system. [PL 2001, c. 232, §2 (NEW).]

B. Three of the members must represent the drinking water public. [PL 2001, c. 232, §3 (AMD).]

C. All members appointed by the Governor must have demonstrated interest, knowledge, experience and expertise regarding public drinking water concerns. The Governor shall seek to appoint members who, to the greatest extent possible, are qualified by interest, education, training or experience to provide, assess and evaluate scientific and technical information regarding public drinking water concerns, financial and staffing requirements and the adoption of policies, standards and rules. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

D. The term of office for members appointed by the Governor is 4 years except that, of the original members appointed, 4 must be appointed for 2 years and 4 must be appointed for 4 years. The Governor shall make all original appointments within 60 days of the effective date of this section. Members may remain in office until their successors are appointed. If a vacancy occurs, the

Governor shall appoint a replacement to fill the remaining portion of the unexpired term created by the vacancy. [PL 2003, c. 191, §1 (AMD).]  
[PL 2003, c. 191, §1 (AMD).]

**2. Chair; vice-chair.** At the first meeting of the commission, the members shall elect from among themselves a chair and a vice-chair. The chair and vice-chair serve for one-year terms. The chair and vice-chair may continue to hold those offices until their successors are elected. The chair calls meetings of the commission and presides over meetings. The vice-chair serves as the chair in the absence of the chair. The commissioner shall call the first meeting of the commission as soon as all initial appointments to the commission have been made.  
[PL 1993, c. 410, Pt. DD, §4 (NEW).]

**3. Meetings.** The commission shall hold at least 2 regular meetings each year and may hold additional regular meetings. Special meetings may be called by the chair, by the commissioner or the commissioner's designee or by at least 3 members of the commission. Five members constitute a quorum.  
[PL 1993, c. 410, Pt. DD, §4 (NEW).]

**4. Duties.** The commission shall:

A. Evaluate the proportion of program effort dedicated to each type of public water system served by the program; [PL 1995, c. 581, §2 (AMD).]

B. Evaluate existing and projected program workloads; [PL 1993, c. 410, Pt. DD, §4 (NEW).]

C. Evaluate existing program resources and project future staffing and resource requirements; [PL 1993, c. 410, Pt. DD, §4 (NEW).]

D. Determine funding requirements necessary to meet projected workloads and staffing and resource requirements; [PL 1993, c. 410, Pt. DD, §4 (NEW).]

E. Determine an equitable program funding share for each type of public water system that recognizes the level of program effort required for that public water system; [PL 1995, c. 581, §2 (AMD).]

F. Determine fee formulas and collection and transfer schedules for each type of public water system; and [PL 1995, c. 581, §2 (AMD).]

G. [PL 1995, c. 581, §3 (RP).]

H. Submit to the commissioner annually by August 1st a report that must include, but is not limited to, a performance evaluation of the program, including the implementation of administrative remedies, and commission recommendations regarding, but not limited to, administrative remedies, program operations, funding and staffing requirements, funding formulas and fee collection and transfer schedules. [PL 1993, c. 678, §5 (AMD).]  
[PL 1995, c. 581, §§2, 3 (AMD).]

**5. Compensation.** Members of the commission are entitled to reimbursement by the department for expenses as authorized by Title 5, chapter 379.  
[PL 1993, c. 410, Pt. DD, §4 (NEW).]

**6. Annual accounting.** Within 60 days of the conclusion of the fiscal year for the program, the manager of the program shall submit to the commission an accounting of all of the funds expended by the program during the fiscal year.  
[PL 1997, c. 666, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW). PL 1993, c. 678, §5 (AMD). PL 1995, c. 462, §A42 (AMD). PL 1995, c. 581, §§1-3 (AMD). PL 1997, c. 666, §B1 (AMD). PL 2001, c. 232, §§1-3 (AMD). PL 2003, c. 191, §1 (AMD).

#### **§2660-D. Annual work plan on primacy**

Annually, by January 1st, the commissioner shall submit to the commission a work plan and budget, listing all funding sources including but not limited to appropriations from the General Fund and allocations from the United States Environmental Protection Agency that are used for the purpose of complying with federal requirements for maintaining primacy. The work plan must include goals and objectives relating to the use of administrative remedies that are consistent with other parts of the work plan. [PL 1993, c. 678, §6 (AMD).]

#### SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW). PL 1993, c. 678, §6 (AMD).

#### **§2660-E. Fees related to primacy**

In addition to fees authorized under Title 22-A, section 210, the commissioner may impose an annual operation fee upon each public water system in the State. [PL 2023, c. 405, Pt. A, §60 (AMD).]

**1. Rules.** The department shall establish fee formulas by rules adopted in accordance with the Maine Administrative Procedure Act. The department must consult with and consider the advice of the commission in preparing the rules. Proposed rules issued by the department under this section must include the fee formulas and collection and transfer schedules developed by the commission. Fee formulas adopted under this section must be equitable. Fees may be based on, but are not limited to, the population served, service connections, volume of water pumped or available seats, campsites, rooms or lots, and may include fixed or graduated fee formulas or combinations of the fee formulas. The base fee may be no more than \$75 per year per public water system. [PL 2009, c. 15, §1 (AMD).]

**2. Collection and disposition of fees.** Fees adopted under this section cover the period beginning July 1, 1993 and must be collected by each public water system in monthly, quarterly or annual increments. Fees collected by public water systems under this section are state fees. The department shall establish schedules for the collection and transfer of fees to the State with the advice of the commission. [RR 1995, c. 2, §40 (COR).]

**3. Suspension and reinstatement of fees.** Fees imposed under this section are suspended on the first day of the calendar quarter following any calendar quarter in which primacy is withdrawn by the Federal Government. Fees suspended under this subsection may be reinstated on the first day of the calendar quarter following the quarter in which the State regains primacy. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW). RR 1995, c. 2, §40 (COR). PL 1995, c. 581, §4 (AMD). PL 1997, c. 705, §13 (AMD). PL 2009, c. 15, §1 (AMD). PL 2023, c. 405, Pt. A, §60 (AMD).

#### **§2660-F. Public Drinking Water Fund**

The Public Drinking Water Fund is established as an interest-bearing dedicated revenue account. All interest earned by the account becomes part of the fund. All fees collected by the commissioner under this subchapter must be deposited into the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years. The commissioner may use the fund only to support the program, including the cost of salaries, benefits, travel, education,

technical assistance, capital equipment and other allowable expenses incurred by the program. [PL 1993, c. 678, §6 (AMD).]

#### SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW). PL 1993, c. 678, §6 (AMD).

#### **§2660-G. Enforcement**

This subchapter must be enforced by the department in accordance with section 2617. [PL 1993, c. 410, Pt. DD, §4 (NEW).]

#### SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW).

#### **§2660-H. Repeal**

**(REPEALED)**

#### SECTION HISTORY

PL 1993, c. 410, §DD4 (NEW). PL 1997, c. 24, §Q1 (RP).

### **SUBCHAPTER 8**

#### **SAFE DRINKING WATER FROM RESIDENTIAL PRIVATE WELLS**

#### **§2660-S. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 230, §3 (NEW).]

**1. Private drinking water well.** "Private drinking water well" has the same meaning as in Title 38, section 1392, subsection 8.

[PL 2017, c. 230, §3 (NEW).]

#### SECTION HISTORY

PL 2017, c. 230, §3 (NEW).

#### **§2660-T. Uniform testing recommendation; specified contaminants and properties**

The department shall develop a uniform recommendation for the testing for specific contaminants or properties for which residential private drinking water wells should periodically be tested. The uniform recommendation must specify contaminants or properties that should be included in the periodic testing, including but not limited to arsenic, bacteria, nitrates, nitrites, chloride, hardness, copper, iron, pH, sodium, lead, uranium, manganese, fluoride and radon, unless the department determines that testing for a contaminant or property listed in this section is not necessary based on previous test results or credible scientific evidence. The department or an entity that provides testing of or provides education or advertisements related to testing of a residential private drinking water well shall include the uniform recommendation developed by the department pursuant to this section in its written materials related to testing of a residential private drinking water well. [PL 2017, c. 230, §3 (NEW).]

#### SECTION HISTORY

PL 2017, c. 230, §3 (NEW).

#### **§2660-U. Fees**

Except as provided in section 2602-A, subsection 3, the Health and Environmental Testing Laboratory established in section 565 shall collect a fee not to exceed \$10 from a person or entity ordering a water test for a water sample from a residential private drinking water well. The fees collected must be credited to the Private Well Safe Drinking Water Fund established in section 2660-W and used for the purpose of increasing testing of residential private drinking water wells. If more than one test of a water sample from the same residential private drinking water well is conducted, the department may waive payment of a fee established under this section for a one-year period. A fee collected under this section is in addition to any fee charged by the department pursuant to section 2602-A, subsection 2. [PL 2021, c. 483, Pt. BB, §3 (AMD).]

#### SECTION HISTORY

PL 2017, c. 230, §3 (NEW). PL 2017, c. 475, Pt. C, §7 (AMD). PL 2021, c. 483, Pt. BB, §3 (AMD).

#### §2660-V. Educational outreach

Within available resources, the department shall revise and update its education and outreach materials as needed and conduct educational outreach regarding residential private drinking water wells, including the need to conduct testing for contaminants or properties specified pursuant to section 2660-T through a laboratory certified pursuant to section 567, the potential health effects of those contaminants or properties and options for water treatment to reduce the level of those contaminants or properties. [PL 2017, c. 230, §3 (NEW).]

#### SECTION HISTORY

PL 2017, c. 230, §3 (NEW).

#### §2660-W. Private Well Safe Drinking Water Fund

**1. Fund established.** The Private Well Safe Drinking Water Fund, referred to in this section as "the fund," is established within the department as a nonlapsing fund for the purposes specified in this section.

[PL 2017, c. 230, §3 (NEW).]

**2. Sources of fund.** The fund is funded from all fees collected under section 2660-U and from other funds accepted by the commissioner or allocated or appropriated by the Legislature. The commissioner may accept donations or grants to the fund from any source.

[PL 2017, c. 230, §3 (NEW).]

**3. Purposes.** Expenditures from the fund may be made only for the following purposes:

A. To improve the rate of testing of residential private drinking water wells for contaminants or properties specified pursuant to section 2660-T; [PL 2017, c. 230, §3 (NEW).]

B. For educational outreach programs consistent with section 2660-V; [PL 2021, c. 483, Pt. BB, §4 (AMD).]

C. To defray the department's costs in administering this subchapter and in waiving fees under section 2602-A, subsections 2 and 3; and [PL 2021, c. 483, Pt. BB, §5 (AMD).]

D. To implement the program established pursuant to section 2602-A, subsection 3 to provide free testing for arsenic of private residential water supplies to low-income residents of the State. [PL 2021, c. 483, Pt. BB, §6 (NEW).]

[PL 2021, c. 483, Pt. BB, §§4-6 (AMD).]

**4. Expenditures.** The division of environmental health within the department shall expend funds with the review and advice of an advisory committee established by the department. The advisory committee must include representatives from at least 2 laboratories certified pursuant to section 567. Preference in expending funds must be given to community-based programs that reach high-risk or



underserved populations. The department may contract for professional services to carry out the purposes of this section.

[PL 2017, c. 230, §3 (NEW).]

#### SECTION HISTORY

PL 2017, c. 230, §3 (NEW). PL 2021, c. 483, Pt. BB, §§4-6 (AMD).

#### §2660-X. Rules

The department shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A necessary to administer and enforce this subchapter. The rules may address, but are not limited to, testing recommendations for contaminants or properties specified pursuant to section 2660-T, water sample test reporting and fee schedules. [PL 2017, c. 230, §3 (NEW).]

#### SECTION HISTORY

PL 2017, c. 230, §3 (NEW).

#### §2660-Y. Landlord arsenic testing

Beginning January 1, 2022 and every 5 years thereafter, a landlord of a residential building shall test for arsenic each private drinking water well used to provide water to a tenant of the landlord. The landlord shall conduct testing under this section through a laboratory certified or accredited pursuant to section 567 and shall, within 10 days of notification of the results, provide to each of the landlord's tenants the results of any test conducted under this section of the private drinking water well used to provide water to the tenant. The landlord shall, within 10 days of notification of the results, notify any new tenant of the most recent results of a test conducted under this section on a private drinking water well that will be used to provide water to the tenant. [PL 2021, c. 483, Pt. BB, §7 (NEW).]

#### SECTION HISTORY

PL 2021, c. 483, Pt. BB, §7 (NEW).

## SUBCHAPTER 9

### BOTTLED WATER

**(Title 22, chapter 601, subchapter 9 as enacted by PL 2023, c. 164, §1 is REALLOCATED TO TITLE 22, CHAPTER 601, SUBCHAPTER 10)**

#### §2660-AA. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2023, c. 330, §1 (NEW).]

**1. Bottler.** "Bottler" means a person that extracts water in this State to be sold as bottled water.

[PL 2023, c. 330, §1 (NEW).]

**2. Community water system.** "Community water system" has the same meaning as in section 2660-B, subsection 2.

[PL 2023, c. 330, §1 (NEW).]

**3. Perfluoroalkyl and polyfluoroalkyl substances or PFAS.** "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a perfluoroalkyl substance or polyfluoroalkyl substance that is detectable in drinking water using standard laboratory methods established by the United States Environmental Protection Agency, including regulated PFAS contaminants.

[PL 2023, c. 330, §1 (NEW).]

**4. Regulated PFAS contaminants.** "Regulated PFAS contaminants" means perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, perfluoroheptanoic acid and perfluorodecanoic acid.  
[PL 2023, c. 330, §1 (NEW).]

**REVISOR'S NOTE:** §2660-AA. Requirements for water treatment equipment (As enacted by PL 2023, c. 164, §1 is REALLOCATED TO TITLE 22, SECTION 2660-FF)

#### SECTION HISTORY

PL 2023, c. 330, §1 (NEW).

#### §2660-BB. Bottled water testing, reporting and sale requirements

A bottler shall comply with the provisions of this section. [PL 2023, c. 330, §1 (NEW).]

**1. Initial testing.** A bottler shall conduct initial testing for the level of PFAS applicable to a community water system detectable using standard laboratory methods established by the United States Environmental Protection Agency in effect at the time of sampling. A bottler shall conduct testing under this subsection for all regulated PFAS contaminants and additional PFAS included in the list of analytes in the standard laboratory methods established by the United States Environmental Protection Agency applicable to community water systems in effect at the time of sampling.  
[PL 2023, c. 330, §1 (NEW).]

**2. Subsequent monitoring.** After completion of initial testing as required by subsection 1, a bottler shall conduct continued monitoring for the presence of regulated PFAS contaminants in water bottled by the bottler according to this subsection.

A. If initial testing under subsection 1 or testing under this paragraph detects the presence of any regulated PFAS contaminants individually or in combination at or above the standard applicable to a community water system, the bottler shall conduct continued quarterly testing until regulated PFAS contaminants are mitigated to the standard applicable to a community water system. [PL 2023, c. 330, §1 (NEW).]

B. If initial testing under subsection 1 detects the presence of any regulated PFAS contaminants at or above each analyte's lowest concentration minimum reporting level as specified in the standard laboratory methods established by the United States Environmental Protection Agency applicable to community water systems in effect at the time of sampling, either individually or in combination with other detected regulated PFAS contaminants, the bottler shall conduct continued testing annually. [PL 2023, c. 330, §1 (NEW).]

[PL 2023, c. 330, §1 (NEW).]

**3. Reporting.** A bottler shall:

A. Report the results of testing required by this section to the department in the same manner as a community water system is required to report under department rule; and [PL 2023, c. 330, §1 (NEW).]

B. Post the results of testing required by this section on a publicly accessible website. The posted information must include the source of the water tested, the date the water was tested and the level of regulated PFAS contaminants present in the water or a statement that the water is free from regulated PFAS contaminants. [PL 2023, c. 330, §1 (NEW).]

[PL 2023, c. 330, §1 (NEW).]

**4. Sale of bottled water.** A bottler may not sell bottled water in this State that contains a regulated PFAS contaminant in an amount that exceeds the standard applicable to a community water system, either under a standard set by this State or a federal standard, whichever requires a lower level of the contaminant.

[PL 2023, c. 330, §1 (NEW).]

**5. Enforcement.** The department may enforce the requirements of this section in the same manner as for a violation of subchapter 2. A bottler may appeal the acts or decisions of the department under this section in the same manner as described in subchapter 2-A.  
[PL 2023, c. 330, §1 (NEW).]

**6. Department website.** The department shall post the testing results received as required by subsection 2 on a publicly accessible website.  
[PL 2023, c. 330, §1 (NEW).]

**7. Rules.** The department shall adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
[PL 2023, c. 330, §1 (NEW).]

#### SECTION HISTORY

PL 2023, c. 330, §1 (NEW).

### SUBCHAPTER 10

#### WATER TREATMENT EQUIPMENT

(REALLOCATED FROM TITLE 22, CHAPTER 601, SUBCHAPTER 9)

#### §2660-FF. Requirements for water treatment equipment

(REALLOCATED FROM TITLE 22, SECTION 2660-AA)

**1. Definitions.** As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Water treatment company" means a company that installs or services water treatment equipment. [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

B. "Water treatment equipment" means equipment located inside a private residence and designed to alter the condition of water for human consumption, including by means of filtration, purification, softening and reverse osmosis. [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

[PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

**2. Labeling requirements for installation.** An employee of a water treatment company shall affix to water treatment equipment installed by the water treatment company on or after July 1, 2024 a label that contains the following information:

A. The name of the water treatment company; [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

B. The full name of the employee that installed the water treatment equipment; [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

C. The date of installation of the water treatment equipment; [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

D. A plumbing permit number associated with the installation of the water treatment equipment, if applicable; [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

E. The condition the water treatment equipment is intended to treat; [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

F. The manufacturer's recommended service interval for the water treatment equipment; [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

G. A service record on which an employee performing service on the equipment can enter the employee's initials and date of service; and [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

H. Any applicable safety precautions or warnings. [PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

[PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

**3. Labeling requirements for servicing.** If an employee of a water treatment company services a piece of water treatment equipment on or after July 1, 2024 with an affixed service record as described by subsection 2, paragraph G, the employee shall enter the employee's initials and date of service. If the employee services a piece of water treatment equipment that does not have a label containing the information required in subsection 2 or that has a label with incomplete information, the employee shall affix a label containing the information required by subsection 2, to the extent the employee can ascertain the information.

[PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

**4. Unfair trade practice.** A water treatment company that fails to comply with this section commits an unfair and deceptive act that is a violation of the Maine Unfair Trade Practices Act.

[PL 2023, c. 164, §1 (NEW); RR 2023, c. 1, Pt. A, §13 (RAL).]

#### SECTION HISTORY

PL 2023, c. 164, §1 (NEW). RR 2023, c. 1, Pt. A, §13 (RAL).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.