

**10-144**

**Chapter 231**

**STATE OF MAINE**

**RULES RELATING TO DRINKING WATER**



**DEPARTMENT OF HEALTH & HUMAN SERVICES  
MAINE CENTER FOR DISEASE CONTROL & PREVENTION  
DIVISION OF ENVIRONMENTAL HEALTH  
11 STATE HOUSE STATION  
AUGUSTA, MAINE 04333**

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10-144  
Chapter 231

Department of Health and Human Services  
Center for Disease Control and Prevention  
Division Of Environmental Health

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**SUMMARY STATEMENT**

These rules contain the requirements, which must be met by public water systems in the State of Maine including those requirements pertaining to the operation of such systems, to the quality of water which must be produced by such systems, and to the options available for enforcement of these regulations.

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**BASIS STATEMENT**

These rules are established to protect public health from unsafe public water supplies and to require that public water supplies notify the population served if problems do exist.

**AUTHORITY**

22 M.R.S.A. Chapter 601, Subchapter I, §2605 and Subchapter II, § 2611-2613, 2615 and Subchapter III § 2628.

**EFFECTIVE DATE**

These regulations are effective March 12, 2008

Non-Discrimination Notice

In accordance with Title VI of the Civil Rights Act of 1964, as amended by the civil Rights Restoration Act of 1991 (42 U.S.C. 1981, 2000e et seq.) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and Title IX of the Education Amendments of 1972, the Maine Department of Human Services does not discriminate on the basis of sex, color, national origin, disability or age in admission or access to or treatment or employment in its programs and activities.

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## SECTION 1: ADMINISTRATION

### A. Application and Scope

The provisions of these rules shall apply to all public water systems unless specifically noted.

### B. Constitutionality Clause

Should any section, paragraph, sentence, clause, or phrase of these regulations be declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.

### C. Licensed Water Operators

1. Owners of all Community and Non-Transient Non-Community water systems must place the direct supervision of their water system, including each treatment facility and/or distribution system, under the responsible charge of an operator(s) holding a valid license with classification equal to or greater than the classification of the treatment facility and/or distribution system.
2. Owners of all water systems that use surface water as a source must place the direct supervision of their water system, including each treatment facility and/or distribution system, under the responsible charge of an operator(s) holding a valid license equal to or greater than the classification of the treatment facility and/or distribution system,
3. The operator(s) in responsible charge or equivalent must hold a valid license equal to or greater than the classification of their water system, including each treatment facility and distribution system as determine by the State.
4. All operating personnel making process control system integrity decisions about water quality or quantity that affect public health must be licensed.
5. A designated licensed operator must be available for each operating shift.
6. Those water systems not required to employ licensed operators will employ or designate individuals responsible for their operation. Such individuals are responsible for proper record-keeping and sample taking as stated in these rules.

### D. Departmental Laboratory Fees

1. The Department shall charge a fee for any examination, testing or analysis required under the rules and performed in the Department of Health and Human Services Health and Environmental Testing Laboratory. Such fees shall be

established and reviewed in accordance with the Maine Administrative Procedure Act, Title 5, Section 8001 et seq.

2. Any person required under this chapter to submit samples of water to the Department for analysis shall pay the shipping charges thereon.

E. Engineering Studies

1. The Department is authorized to order a public water system to conduct engineering studies to correct deficiencies or violations to the Safe Drinking Water Act, or these rules.
2. The Department is authorized to order that any or all of the recommendations in the study be carried out. Prior to such an order an opportunity for a public hearing shall be provided by the Department.

F. Imminent Hazards to Public Health

1. Pursuant to 22 M.R.S.A. § 2617, the Department is authorized to issue orders to any person to comply with the requirements of these regulations, and is further authorized to petition the courts to compel compliance with such orders.
2. Pursuant to 22 M.R.S.A. § 2614, upon receipt of information that there is an imminent endangerment to health due to the actual or threatened existence of contaminants in a public water system, or if for other reasons, the Department may take such actions, including, but not limited to, issuing necessary orders or commencing court action, as it deems necessary to protect the public health.
3. Pursuant to 22 M.R.S.A. § 2614, upon receipt of information that there is an imminent endangerment to public health due to the actual or threatened existence of biological contaminants, as indicated by the presence of pathogenic microorganisms or the presence of indicator organisms that indicate the potential presence of pathogenic microorganisms, in a public water supply, or when, in the judgment of the Department, such a condition exists or is likely to exist in a public water supply and will result in a serious risk to public health, the Department shall initiate "Boil Water Order" procedures. Upon the determination by the Department that conditions exist such that would warrant the issuance of a "Boil Water Order," the public water system shall be immediately notified of the determination. Upon notification by the Department of the "Boil Water Order" the public water system shall immediately institute the "Boil Water Order" system wide or as otherwise directed by the Department until such time as the Department makes the determination that the "Boil Water Order" may be lifted.

a. Boil Water Order Procedures

- i. The Department shall provide the appropriate Boil Water Order language to the owner, manager, or other responsible individual either by telephone, FAX or in person for immediate distribution to consumers.
  - ii. If the Department is unable to contact an appropriate person then the Department's field staff may distribute handbills to consumers.
  - iii. The Department shall follow-up by sending the Boil Water Order language and other requirements in writing via certified mail to the appropriate representative of the water system concerned.
  - iv. Nothing in these Boil Water Order procedures shall absolve the supplier of water from providing appropriate public notification to their consumers.
- b. When a water system is issued a "Boil Water Order" by the Department, that water system shall appropriately notify consumers within 24 hours of its issuance.
  - c. Notification of the "Boil Water Order" shall be accomplished by either: publishing it in a daily newspaper of general circulation in the area the system serves water to the public; announcing it on a local radio; announcing it on television; for non-community water systems posting it in conspicuous places (i.e. employee bulletin boards, bathrooms, doors entering an establishment, and other appropriate places) or by hand delivering it to each consumer. The Department may require any combination of the above forms of notification that it deems necessary to sufficiently inform the consumers of water of the system of the "Boil Water Order."
  - d. The following language shall be included in all "Boil Water Order" notices distributed by the system:
    - "Due to the possibility of unsafe water, public water system users are directed to Boil All Water for at least five minutes before drinking, making ice cubes, washing foods, brushing teeth or engaging in any other activity involving the consumption of water. The Order shall remain in effect until further notice.

Questions regarding this notice may be directed to the Public Water System at:

Fill-in: Name of Contact Person

Name of System

Telephone #

or to the State of Maine Drinking Water Program at (207) 287-2070.

- e. The Department may lift the "Boil Water Order" if it determines that the imminent endangerment to public health has been remedied. Prior to lifting the "Boil Water Order" the Department will take or require the water system to take the appropriate number of bacteria samples:

The required number of samples taken to lift a "Boil Order" shall correspond to the population requirement of the Total Coliform Rule in section 7 (TCR) but in no case shall be less than three. Population determination for the Boil Water Order shall be based upon the affected area of the Boil Water Order.

All samples must test negative for *E. Coli*/Total Coliform/Fecal Coliform in order for the Department to lift the "Boil Water Order."

## SECTION 1-A: ALTERNATIVE FUNDING MECHANISM

Pursuant to 22 M.R.S.A. § 2660 – E (1) the Commissioner may impose a fee upon each legal entity deemed a public water system in the State for the purpose of retaining primacy. The Department shall establish fee formulas by rule according to the Administrative Procedure Act (APA). Pursuant to 22 M.R.S.A. § 2660-E, the Department must consult with and consider the advice of the Maine Public Drinking Water Commission (the Commission) in preparing the rules. The rules issued by the Department must include the fee formulas and collection and transfer schedules developed by the Commission. Revenues derived through such fee formulas shall be referred to as Alternative Funding Mechanism (AFM) Fees. Further, pursuant to 22 M.R.S.A. § 2660-E revenues generated from collection of these fees shall be used for the purpose of retaining primacy including the funding of Department positions as stated below.

### A. Fee Formulas

1. Pursuant to 22 M.R.S.A. 2660-B in Chapter 601, the following AFM fee formula is established:
  - a. The AFM fee is equal to the base fee plus the per capita rate multiplied by the population capacity minus the exempt population.
  - b.  $AFM\ Fee = Base\ Fee + ((per\ capita\ rate) \times (population\ capacity) - (exempt\ population.))$
  
2. Pursuant to 22 M.R.S.A. § 601, Subchapter VII §§ 2601 – 2660-G, the following bottled water facility and treated water vending machines AFM fee formulas are established:
  - a. The fee schedule for in-state water bottlers shall be based on gallons produced. (Bottler Size Factor X Fee Rate per Bottler Size). The Drinking Water Commission and the Department will set the Fee Rate per Bottler Size Factor annually.
  - b. The minimum fee will be \$50.
  - c. The fee schedule for out-of-state bottlers will be based on the volume of water sold in Maine. (Volume Sold Multiplier X Base Rate). The Drinking Water Commission and the Department will set the Volume Sold Multiplier and the Base Rate on an annual basis.
  - d. The fee schedule for treated water vending machines shall be calculated at a rate of \$10.00 per machine, with a minimum fee of \$ 50 per vendor and not to exceed a maximum of \$150. (Based Fee + (Per-machine Rate X Number of Machines).

- e. Production reports are subject to annual verification by the Department. Failure to comply may result in assessment of the maximum bottled water fee.

B. Formula Parameters

1. The following parameters shall be used to determine and calculate the AFM fee for regulated public water systems:
  - a. The minimum fee shall be equal to the base fee;
  - b. The base fee shall be no more than \$50 per year per public water system;
  - c. The Commission and the Department will establish the per capita rate annually.
  - d. The population capacity shall be based on, but not limited to, the population served, service connections, volume of water pumped or available seats, campsites, rooms or lots, and may include a fixed or graduated fee formula or combinations of the fee formulas; and
  - e. An exempt population may be determined to be part of the AFM and subtracted from the population capacity as determined by the Commission and the Department annually pursuant to 22 M.R.S.A § 2613.
  - f. The total of the base fee plus the per capita fee shall be no more than \$30,000 per year per public water system.
2. The following parameters shall be used to determine and calculate the Bottled Water and Treated Water Vending Machines AFM fee for regulated public water systems:
  - a. All in-state bottlers shall submit gallon production reports for the year ending December 31st, and such reports are due no later than March 1st.
  - b. The production report, which will provide the number of gallons produced for the sale of bottled water, shall be used to calculate the AFM fee.
  - c. Fees collected under this section cover a one-year period beginning July 1 and shall coincide with the State fiscal year.

C. Fund Management

1. The Fund shall be managed within the following parameters:

- a. The Public Drinking Water Fund is established as an interest-bearing dedicated revenue account;
  - b. All interest earned by the account becomes part of the fund;
  - c. All fees collected by the Commissioner under this subchapter must be deposited into the fund;
  - d. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years; and
  - e. The Commission may use the fund only to support the cost incurred by the Department in managing the Fund, including the cost of salaries, benefits, travel, education, technical assistance, capital equipment and other allowable expenses incurred by the Department.
2. Collection and disposition of fees pursuant to 22 M.R.S.A. § 2660-F:
    - a. All public water systems must pay an annual AFM fee.
    - b. Fees collected under this section cover a one year period beginning July 1 and shall coincide with the State fiscal year;
    - c. Fees collected under this section are State fees;
    - d. Fees must be collected by each public water system in monthly, quarterly, or annual increments; and
    - e. The Department shall establish schedules for the collection and transfer of fees to the State with the advice of the Commissioner.
- D. Alternative Funding Revenues to be Generated
1. The fee structure shall be sufficient to generate funds to support no more than 10 positions for a full year.
- E. Collection and Remittance of Fees
1. Any legal entity assessed a total fee of \$500 or more may exercise the option of remitting the assessed fee on a quarterly basis. Fees so remitted shall be due and payable July 1, October 1, January 1, and April 1. Legal entities opting to remit on a quarterly basis shall remit at least 25% of the total assessment each quarter. Fees shall be deemed delinquent 30 days after the due date.
  2. Any legal entity assessed a total fee of \$500 or more that opts not to pay fees on a quarterly basis shall pay fees to the Department annually. Such fees shall be due and payable by July 1 of each calendar year. Fees shall be deemed delinquent 30 days after the due date.
  3. Any legal entity assessed a total fee of less than \$500 must remit the assessed fee on an annual basis. Fees remitted on an annual basis shall be due and payable July 1 and shall be deemed delinquent 30 days after the due date.

4. Fees shall be made payable to the Treasurer, State of Maine and pursuant to 22 M.R.S.A. Section 2660-F shall be deposited in the Public Drinking Water Fund.

F. Records Required

1. Records documenting the collection and transfer of fees required in these rules shall be retained by the owner or other duly authorized person. The records shall be kept in-state and on-site of the public water system for a period of at least 5 years. If it is not possible to keep the records on-site then the records shall be kept such that an appropriate person from the Department may inspect such records upon request. Further, the records should be transferred to the new owner with the sale of the public water system.
2. Records documenting the collection and transfer of fees as required in these rules shall be made readily available by the owner or other duly authorized person for inspection by appropriate authorities at all times during normal business hours.
3. The Department shall keep records documenting the collection and transfer of all fees assessed for at least 5 years.

G. Failure to Remit Fees to the Department

1. The Department may seek relief in a court of competent jurisdiction as provided in 22 M.R.S.A. §§ 2617 through 2620 or § 2660-G for failure to remit fees in a timely manner.

**SECTION 1-B: ADVISORY RULING AND ADJUDICATORY PROCEEDINGS**

- A. Advisory Rulings as Authorized Pursuant to 5 M.R.S.A. § 9001
1. Upon written request, the Department may render an advisory ruling with respect to the interpretation and/or applicability of a Drinking Water Law, Rule, or Procedure administered by the Department.
  2. A request for an advisory ruling shall be addressed to the Program Director, Drinking Water Program, Division of Environmental Health, Maine Center for Disease Control and Prevention, Department of Health and Human Services, 11 State House Station, Augusta, ME 04333-0011.
  3. The Department may refuse to issue an advisory ruling if it may harm its interests in any litigation to which it may become a party.
  4. An advisory ruling shall be in writing and issued no more than 60 days from the date when the Department has received all information necessary for the ruling.
  5. A verbal opinion is not an advisory ruling. Verbal opinions shall not be considered binding upon the Department in any manner.
- B. Adjudicatory Proceedings as Authorized Pursuant to 5 M.R.S.A. § 9051
1. This section governs the means of appealing a decision made by the Department to the Fair Hearing Unit pertaining to an interpretation of the Department's Drinking Water Laws, Rules, or Procedures under Title 22 M.R.S.A. Chapter 601.
  2. Appeals by a Public Water System are limited to appeals contending that a decision by the Department misapplies applicable laws, procedures, or rules; or is based upon a significant factual error to the detriment of the Public Water System.
  3. Hearing requests shall be directed to the Director, Center for Disease Control and Prevention, 11 State House Station, Augusta, ME 04333-0011. The request shall state the specific issues being appealed. Within 14 days of its receipt, the Office Director shall forward the request for an administrative hearing to: Chief Hearings Officer, Office of Administrative Hearings, 10 State House Station, Augusta, ME 04333-0010. The request to the office of Administrative Hearings shall be accompanied by an administrative hearing report.
  4. A hearing officer shall conduct the administrative hearing.

5. The hearing will be conducted pursuant to the rules of the Office of Administrative Hearings, as set forth in the Administrative Hearing Manual, and in conformity with the Administrative Procedures Act 5 M.R.S.A. § 8001, et seq.
6. A notice will inform the persons of the time, date, and place of the hearing. The hearing will be held in Augusta, unless otherwise noted. The hearing date will be at least 20 days following the date of the notice of the administrative hearing.
7. The hearing officer shall issue a written decision of the administrative hearing to all parties.
8. Any person or party dissatisfied with the hearing officer's decision has the right of judicial review under the Maine Rules of Civil Procedure, Rule 80C.

## SECTION 1-C: SAFE DRINKING WATER ADMINISTRATIVE ENFORCEMENT

Pursuant to 22 M.R.S.A. § 2617 the Department may seek and impose Administrative Remedies for any noncompliance with the state drinking water laws, regulations and rules. The purpose of the Administrative Remedies is to enable the Department to establish an effective enforcement program to meet primacy requirements of the United States Environmental Protection Agency and thereby to protect the public health. Pursuant to 22 M.R.S.A. § 2620-C the Department is authorized to adopt rules regarding the notice and the issuance, amendment and withdrawal, of the Administrative Consent and Compliance Orders. Further, pursuant to 22 M.R.S.A. § 2620 (2) the Department is authorized to adopt rules establishing a schedule of Administrative Penalties. In seeking and imposing enforcement actions the Department may pursue any combination of administrative and judicial remedies depending upon the circumstances and gravity of each case and provided that the Department follows the procedures established by statute and further established by these rules. The penalties and remedies prescribed by 22 M.R.S.A. § 2617 et seq. shall be deemed to be concurrent and the existence of an exercised remedy shall not prevent the Department from exercising any other remedy.

### A. Preconditions for Assessment of Administrative Remedies

1. An Administrative Remedy discussed below may only be administered for a violation or a failure to comply that, at the time it occurred, constituted noncompliance with statutes or regulations under the jurisdiction of the Department's Drinking Water Program:
  - a. which was then in effect; and
  - b. to which the person was then subject; and
  - c. to which these rules apply.
2. The imposition of Administrative Remedies shall not be deemed in any way to extend any deadline for compliance.
3. A Notice of Non-Compliance shall be issued prior to invoking the Administrative Remedy process unless exempt under 22 M.R.S.A. § 2620-B. A Notice of Non-Compliance shall be issued by the Department within 30 days after a violation is identified under 22 M.R.S.A. § 2601 et seq., and shall contain the following information:
  - a. Identification of the violation(s);
  - b. A compliance deadline; and
  - c. The possible consequences of continued noncompliance.

### B. Notice and Issuance, Amendment and Withdrawal of Administrative Consent Orders

1. The Department may propose an Administrative Consent Order after a Notice of Non-Compliance has been issued and after the system has failed to resolve the violation(s) cited in the Notice of Non-Compliance as specified below:
  - a. The Administrative Consent Order may be proposed by the Department and sent to the owner of the public water system; and
  - b. The Department's proposal of an Administrative Consent Order shall initiate the Department's effort to negotiate in good faith; and
  - c. The Administrative Consent Order shall be sent via certified mail and service shall be effective the date of receipt of the certified mail; and
  - d. The date of the Department's good faith effort shall be deemed to be initiated upon the date of the receipt of the certified mail; and
  - e. The Owner of the Water System shall have the responsibility to contact the Department to accept the offer to negotiate in good faith. Otherwise, after 10 calendar days if the Department has received no acceptance to negotiate in good faith from the owner of the Water System then the Department shall be deemed to have fulfilled its good faith effort requirement; and
  - f. The Administrative Consent Order shall state with reasonable specificity the nature of the violation the public water system is alleged to have violated, specify a reasonable time frame for compliance, and clearly specify the terms under which the Department may cease to negotiate in good faith and therefore revoke the offer; and
  - g. Generally, the Department will be deemed to have fulfilled its obligation to negotiate in good faith if after 60 calendar days from the date of receipt of notice, no agreement has been reached except for the following types of violations: monitoring violations, public notification violations and collection of fees. For monitoring violations, public notification violations, and collection of fees the Department's good faith effort obligation will be deemed to be fulfilled if after thirty calendar days the system has failed to enter into an agreement to rectify its non-compliance; and
  - h. If the Department has fulfilled its obligation to negotiate in good faith as specified above then the Department may revoke its offer to enter into an Administrative Consent Order.
2. The Administrative Consent Order shall become final on the date of the last signatory. The Department shall be the last signatory.

3. The amendment of an Administrative Consent Order may only occur with the consent of both parties to the agreement. Any requests to amend the agreement must be placed in writing.

C. Notice and Issuance, Amendment and Withdrawal of Administrative Compliance Orders

1. The Department may issue an Administrative Compliance Order pursuant to 22 M.R.S.A. § 2617 et seq. as specified below provided that the Department has issued a Notice of Non-Compliance, the Water System has failed to resolve the violations cited in the Notice of Non-Compliance, and the Department has fulfilled its good faith obligation or has made the determination that the violation creates a serious risk to public health as specified at 22 M.R.S.A. § 2620-B.
  - a. The Administrative Compliance Order may be issued by the Department and sent to the owner of the water system; and
  - b. The Administrative Compliance Order shall be sent via certified mail and service shall be effective the date of receipt of the certified mail; and
  - c. The Administrative Compliance Order shall state with reasonable specificity the nature of the violation the public water system is alleged to have violated, specify a reasonable time frame for compliance, provide the owner of the water system with an opportunity to request a hearing within 30 calendar days of receipt of notice and specify a penalty that shall be assessed if the system fails to comply with the order.
2. Requests for Adjudicatory Hearings
  - a. Adjudicatory Hearings shall be conducted by the Department's Hearings Unit in accordance with the Administrative Procedure Act at 5 M.R.S.A. § 9051 et seq. A request for a Hearing shall be placed in writing and directed to the Director, Center for Disease Control and Prevention; and
  - b. The Hearing Officer's decision shall be deemed to be the Department's final agency action and shall be binding on the Department. Otherwise a party aggrieved with the decision has a right to judicial review.
3. The Administrative Compliance Order may only be amended by the Department. If a public water system desires an extension of time to the Administrative Compliance Order then the system must place a request in writing to the Department prior to the passage of the deadline. The written request for an extension of time shall clearly specify actions taken by the system to attempt to prevent the non-compliance with a deadline, establish that the delay in compliance is beyond the control of the water system, and the length of time needed for compliance. Otherwise, the passage of the deadline of an Administrative Compliance Order shall constitute non-compliance with the

Administrative Compliance Order and shall trigger the notice of penalty assessment which shall contain a penalty.

4. If the Department determines that a violation creates a serious risk to public health then the Department is exempt from issuing a Notice of Non-Compliance and from offering to negotiate an Administrative Consent Order in good faith and may immediately issue an Administrative Compliance Order.
  - a. The term "serious risk to public health" may include but not be limited to an MCL or Treatment Technique Violation.

#### D. Procedures for Imposing Administrative Penalties

1. In the case of a violation of a requirement of a statute, rule, or order for which the applicable statute authorizes an Administrative Penalty and which imposes an affirmative duty on a person, the person upon whom the duty is imposed by the statute, rule or order shall be subject to the imposition of an Administrative Penalty.
2. In the case of a violation of a requirement of a statute, rule, or order for which the applicable statute authorizes an Administrative Penalty and which prohibits one or more specified acts, any person who commits the act(s) shall be subject to the imposition of an Administrative Penalty.

#### E. Assessment of Administrative Penalties Generally

1. An Administrative Penalty shall be assessed via a Notice of Penalty Assessment. An Administrative Penalty may be assessed as part of an Administrative Compliance Order and shall be assessed as a result of a violation of an Administrative Compliance Order.
2. The earliest that an Administrative Penalty may be assessed is at the date good faith efforts cease and the Department has failed to enter into an Administrative Consent Order or on the date that a public water system fails to comply with an Administrative Compliance Order.
3. In the event that a penalty is not specified for a particular violation, the Department may assess a penalty for the violation that reflects the Type of violation. The penalty assessed may be no greater than \$750 per violation per day except that for public water systems serving more than 10,000 people an administrative penalty may not be less than \$1,000 per violation per day. Each day that a violation remains uncorrected may be counted as a separate violation.

#### F. Assessment of Administrative Penalties

1. The Penalty assessed for public water systems serving more than 10,000 people shall be determined by the Type of violation. A violation shall be deemed either

as Type 1, a Type 2, or a Type 3 violation. In no case shall the penalty assessed pursuant to this subsection be less than \$ 1,000 per violation per day.

- a. A Type 1 violation shall be deemed to have a direct impact on public health, a serious risk to public health and/or immediate threat to public health. The maximum penalty for Type 1 violation shall be \$ 2,000 per violation per day.
- b. Type 2 violations may have a direct impact on public health, but are mainly non-compliance with technical safeguards. The maximum penalty shall be \$1,500 per violation per day. Such violations include but are not limited to the following:
  - i. failure to comply with monitoring requirements; and/or
  - ii. failure to complete public notification.
- c. Type 3 violations may have an indirect impact on public health and are generally related to poor record keeping. The penalty shall be \$1,000 per violation per day. Such violations include, but are not limited to the following:
  - i. failure to submit monitoring or other required reports;
  - ii. late submittal of monitoring or other required reports; and/or
  - iii. failure to keep records on file as required

2 The Penalty assessed for public water systems serving less than 10,000 people shall be determined by the Type of violation. A violation shall be deemed either as a Type 1, a Type 2, or a Type 3 violation.

- a. A Type 1 violation shall be deemed to have a direct impact on public health, a serious risk to public health and/or an immediate threat to public health. The maximum penalty for Type I violations shall be \$750 per violation per day.
- b. Type 2 violations may have a direct impact on public health, but are mainly non-compliance with technical safeguards. Such violations include but are not limited to the following:
  - i. failure to comply with monitoring requirements; and/or
  - ii. failure to complete public notification.

The maximum penalty shall be \$350 per violation per day.

- c. Type 3 violations may have an indirect impact on public health and are generally related to poor record keeping. Such violations include, but are not limited to the following:
  - i. failure to submit monitoring or other required reports;
  - ii. late submittal of monitoring or other required reports; and/or
  - iii. failure to keep records on file as required.

The maximum penalty shall be \$50 per violation per day.

- 3. The Department may reduce the maximum penalty assessed based on but not limited to the following criteria:
  - a. Whether steps were taken by the public water system to prevent the violation;
  - b. Whether steps were taken by the public water system to remediate or mitigate damages resulting from the violation;
  - c. The financial condition of the public water system; and
  - d. The best interest of the public.
- 4. However, for public water systems serving more than 10,000 people, the penalty must not be reduced to less than \$1,000 per day per violation. The Department may increase the maximum penalty established for each violation provided that no penalty assessed shall be greater than \$750 per violation per day for public water systems serving fewer than 10,000 people based on but not limited to the following:
  - a. The nature and duration of the violation;
  - b. The level of assessment necessary to ensure immediate and continued compliance;
  - c. Whether the public water system has a history of violations;
  - d. Whether or not compliance is less costly than committing the violation; and
  - e. Deterrence of future noncompliance.

G. Assessment of Administrative Penalties - Hearing

1. Any person against whom the Department seeks to assess an Administrative Penalty for a violation of a statute, rule, or order has the right to request a Hearing. The request for a Hearing must be filed with the Department within 30 days after the service of Notice of Penalty Assessment.
2. The Hearing Officer's decision shall be deemed to be the Department's final agency action and shall be binding on the Department. Otherwise, a party aggrieved with the decision has a right to judicial review.

#### H. Assessment of Administrative Penalties - Enforcement

1. The Department's issuance of an Administrative Penalty shall be a binding order on the person issued the Penalty by the Department upon the person's election to waive, or failure to timely request, an Adjudicatory Hearing on the violation and/or the penalty. Each day during which the person fails to pay said penalty or otherwise fails to comply with an order of the Department constitutes a separate and distinct violation.

#### I. Administrative Penalty Schedule

1. Type 1 Violations:
  - a. For failure to complete an engineering study/engineering order as required by 22 M.R.S.A. § 2612(4)/10-144 CMR 231 Section 1(E)(1).
  - b. For a violation of an Emergency Order/Boil Order as required at 22 M.R.S.A. § 2614/10-144 CMR 231 Section 1(F).
  - c. For failure to apply appropriate disinfection to water treatment plants at 10-144 CMR 231 Section 3(F)(2)(c).
  - d. For failure to apply appropriate disinfection of wells prior to the use of the wells as a source of public drinking water as required at Section 3(F)(2)(d).
  - e. For failure to appropriately disinfect a surface water source as required at 10-144 CMR 231 Sections 3(H)(1)(a) and 7(H)(3).
  - f. For systems using ground water sources that fail to install facilities for chlorinating as required at 10-144 CMR 231 Section 3(H)(2)(a).
  - g. For systems using ground water sources that fail to store or use hazardous chemicals outside of the proximity of the well as required at 10-144 CMR 231 Section 3(H)(2)(b).

- h. For failure to immediately report to the Department the occurrence of spills of hazardous chemicals within the wellhead protection area as required at 10-144 CMR 231 Section 3(H)(2)(d) and Section 3(I)(2).
- i. For failure to continuously disinfect a dug well or spring if required by the Department at 10-144 CMR 231 Section 4(D).
- j. For failure of a community water system to provide a minimum positive pressure of 20 p.s.i. at the curb cock as required at 10-144 CMR 231 Section 4(A).
- k. For failure to comply with the Maximum Contaminant Level requirements for inorganic chemicals as required at 10-144 CMR 231 Section 7(B)(1).
- l. For failure to comply with the Maximum Contaminant Level requirements for organic chemicals as required at 10-144 CMR 231 Section 7(B)(2).
- m. For failure to comply with the Maximum Contaminant Level requirements for radionuclides as required at 10-144 CMR 231 Section 7(B)(6).
- n. For failure to comply with the Maximum Contaminant Level for organic contaminants as required at 10-144 CMR 231 Section 7(G)(2).
- o. For failure to comply with the Maximum Contaminant Level for inorganic contaminants as required at 10-144 CMR 231 Section 7(G)(3).
- p. For failure to comply with the Maximum Contaminant Level for microbiological contaminants as required at 10-144 CMR 231 Section 7(G)(4).
- q. For failure to meet criteria for avoiding filtration as required at 10-144 CMR 231 Section 7(H)(2) .
- r. For failure to meet disinfection requirements as required at 10-144 CMR 231 Section 7(H)(3).
- s. For failure to meet filtration requirements as required at 10-144 CMR 231 Section 7(H)(4).
- t. For failure to meet source water treatment requirements as required at 10-144 CMR 231 Section 7(I)(4).
- u. For failure to meet Treatment Technique requirements for lead and copper as required at 10-144 CMR 231 Section 7(K).

- v. For failure to meet MCL and Maximum Residual Disinfection Level (hereafter MRDL) requirements as required at 10-144 CMR 231 Section 7(L).
  - w. For failure to follow specifications for the disinfection of water mains as required at 10-144 CMR 231 Section 3(F)(2)(a).
  - x. For failure to follow specifications for the disinfection of a water storage facility prior to being placed in service 10-144 CMR 231 Section 3(F)(2)(b).
  - y. For failure of a transient non-community water system that is in operation seasonally to complete required water tests for coliform bacteria, nitrate and nitrite during the first 30 days of operation as required at 10-144 CMR 231 Section 3(J)(1).
  - z. For failure of a new transient water system to complete appropriate tests prior to utilizing the source as a water supply as required at 10-144 CMR 231 Section 3(J)(2).
  - a-1. For failure to maintain appropriate disinfectant residual or application rate as required at 10-144 CMR 231 Section 4(D).
  - b-1. For failure to meet MRDL requirements for disinfection byproducts as required at 10-144 CMR 231 Section 7(G)(6).
  - c-1. For failure to meet MCL requirements for residual disinfectant as required at 10-144 CMR 231 Section 7(G)(7).
  - d-1 For failure to meet Treatment Technique requirements for disinfection byproducts as required at 10-144 CMR 231 Section 7(L)(6)
  - e-1 For failure to meet filtration requirements as required at 10-144 CMR 231 Section 7 (H)(4).
  - f-1 For failure to meet criteria for avoiding filtration as required 10-144 CMR 231 Section 7(H)(2).
2. Type 2 Violations:
- a. For failure to employ a licensed water operator as required by 22 M.R.S.A. § 2623, 2625, and 2630 and 10-144 CMR Section 1(C).
  - b. For failure to submit plans to be reviewed and approved by the Department specified at 10-144 CMR 231 Section 3 (C).

- c. For failure to submit for approval plans to protect the surface supply watersheds as required at 10-144 CMR 231 Section 3(G)(1)(a).
- d. For failure to submit a map for approval that shows the watershed area delineation and potential sources of contamination as required at 10-144 CMR 231 Section 3(G)(1)(b).
- e. For failure to submit for approval a Preliminary New Well/Final New Well Approval Form as required at 10-144 CMR 231 Section 10-144 CMR 231 Section 3(G)(2).
- f. For failure to discharge water softeners or other treatment techniques in an approved manner as required at 10-144 CMR 231 Section 3(H)(2)(e).
- g. For failure of a community water system to have a sanitary seal at the termination of the well casing as required at 10-144 CMR 231 Section 3(H)(2)(f).
- h. For failure to appropriately cover, disinfect and screen vents of reservoirs as required at 10-144 CMR 231 Section 4(B).
- i. For failure to obtain a permit for a cross connection as required at 10-144 CMR 231 Section 4(F).
- j. For failure to appropriately add fluoridation as required at 10-144 CMR 231 Section 4(J).
- k. For failure to comply with rules for bottling water for consumption as required at 10-144 CMR 231 Section 4(K).
- l. For failure to monitor for Coliform as required at 10-144 CMR 231 Section 7(C)(1).
- m. For failure to monitor for Turbidity as required at 10-144 CMR 231 Section 7(C)(2).
- n. For failure to monitor for Inorganic Chemicals as required at 10-144 CMR 231 Section 7(C)(3).
- o. For failure to monitor for Organic Chemicals as required at 10-144 CMR 231 Section 7(C)(4).
- p. For failure to monitor for radionuclides as required at 10-144 CMR 231 Section (7)(C)(6).

- q. For failure to monitor for Total Trihalomethanes as required at 10-144 CMR 231 Section 7(C)(4).
- r. For failure to complete special monitoring for inorganic and organic chemicals as required at 10-144 CMR 231 Section 7(E)(1).
- s. For failure to complete special monitoring for sodium as required at 10-144 CMR 231 Section 7(E)(2).
- t. For failure to complete special monitoring for corrosivity characteristics as required at 10-144 CMR 231 Section 7(E)(3).
- u. For failure to comply with the prohibition on use of lead pipes, solder and flux as required at 10-144 CMR 231 Section 7(E)(4).
- v. For failure to meet analytical and monitoring requirements for filtration and disinfection as required at 10-144 CMR 231 Section 7(H)(5).
- w. For failure to meet the monitoring requirements for lead and copper in tap water as required at 10-144 CMR 231 Section 7(I)(7).
- x. For failure to meet the monitoring requirements for water quality parameters as required at 10-144 CMR 231 Section 7(I)(8).
- y. For failure to meet monitoring requirements for lead and copper in source water as required at 10-144 CMR 231 Section 7(I)(9).
- z. For failure to comply with the requirements regarding Non-Centralized Treatment Devices as required at 10-144 CMR 231 Section 7(J).
- a-2. For failure to comply with the siting requirements as required at 10-144 CMR 231 Section 7(A)(5).
- b-2. For failure to comply with MCL requirements for turbidity as required at 10-144 CMR 231 Section 7(B)(3).
- c-2. For failure to meet lead service line replacement requirements as required at 10-144 CMR 231 Section 7(I)(5).
- d-2. For failure to meet public education and supplemental monitoring requirements as required at 10-144 CMR 231 Section 7(I)(6).
- e-2. For failure to install and maintain appropriate hydrants as required at 10-144 CMR 231 Section 4(G).

- f-2. For failure to install appropriate curb stops (curb cocks) as required at 10-144 CMR 231 Section 4(H).
  - g-2. For failure to monitor for disinfectant residuals as required at 10-144 CMR 231 Section 7(L)(3).
  - h-2. For failure to comply with the compliance requirements regarding disinfection byproducts as required at 10-144 CMR 231 Section 7(L)(4).
  - i-2. For failure to meet filtration sampling requirements at 10-144 CMR 231 Section 7(P)(5).
  - j-2. For failure to submit disinfection profiling and benchmarking as required at 10-144 CMR 231 Section 7(P)(3).
  - k-2. For failure to comply with the recycle provisions as required at 40 CFR 141.76 and 10-144 CMR 231 Section (7)(H)(7).
3. Type 3 Violations:
- a. For failure of a system to keep water analyses results as required at 10-144 CMR 231 Section 5(A).
  - b. For failure of a system to keep records of actions taken by the system to correct violations of drinking water regulations as required at 10-144 CMR 231 Section 5(B).
  - c. For failure of a system to keep records of sanitary surveys as required at 10-144 CMR 231 Section 5(C).
  - d. For failure of a system to keep records regarding a variance or exemption as required at 10-144 CMR 231 Section 5(D).
  - e. For failure of a system to maintain daily operational records as required at 10-144 CMR 231 Section 5(E).
  - f. For failure to comply with any reporting requirements as required at 10-144 CMR 231 Section 6(A).
  - g. For failure to report analytical testing requirements by the tenth day of the following month in which the samples were analyzed as required at 10-144 CMR 231 Section 6(B).
  - h. For failure of community water systems serving municipalities or districts or any public water system that adds chemicals on a continues basis to file

with the Department no later than the 10<sup>th</sup> day of each month, monthly operational reports as required at 10-144 CMR 231 Section 6(C).

- i. For failure to report test results as required at 10-144 CMR 231 Section 7(D)(1).
- j. For failure to provide appropriate public notification as required at 10-144 CMR 231 Section 7(Q)(1).
- k. For failure to appropriately maintain records as required at 10-144 CMR 231 Section 7(D)(3).
- l. For failure to provide appropriate public notice pertaining to lead as required at 10-144 CMR 231 Section 7(I)(6).
- m. For failure to report or provide public notification for certain unregulated contaminants as required at 10-144 CMR 231 Section 7(E)(1).
- n. For failure to meet reporting or record keeping requirements as required at 10-144 CMR 231 Section 7(H)(6).
- o. For failure to meet reporting requirements for lead and copper as required at 10-144 CMR 231 Section 7(I)(11).
- p. For failure to meet record keeping requirements for lead and copper as required at 10-144 CMR 231 Section 7(I)(12).
- q. For failure to meet the reporting requirements as required at 10-144 CMR 231 Section 7(O).
- r. For failure to submit payment to the Department of the Alternative Funding Fee at 10-144 CMR 231 Section 1-A.
- s. For failure to have sanitary surveys conducted of the Watershed as required at 10-144 CMR 231 Section 3(H)(1)(C).
- t. For failure to meet reporting and recordkeeping requirements for Disinfection Byproducts at 10-144 CMR 231 Section 7(L)(5).
- u. For failure to meet reporting and record keeping requirements for Turbidity at 10-144 CMR 231 Section 7(P)(6).

## SECTION 2: DEFINITIONS

**ACT:** means the Public Health Service Act, as amended by the Safe Drinking Water Act, Public Law 93-523.

**ACTION LEVEL:** The concentration of lead or copper in water specified in 40 CFR § 141.80 (c), which determines, in some cases, the treatment requirements contained in Subpart I of § 141.80 (c) that a water system is required to complete.

**ADMINISTRATIVE COMPLIANCE ORDER:** An administrative order that is issued by the Commissioner against a public water system in violation of State drinking water laws, regulations or rules.

**ADMINISTRATIVE CONSENT ORDER:** 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.

**ADMINISTRATIVE PENALTY:** A fine imposed by the Commissioner against a public water system in violation of state drinking water laws, regulations or rules.

**ADMINISTRATIVE REMEDY:** An administrative compliance order, an administrative consent order or an administrative penalty.

**APA:** The State of Maine Administrative Procedure Act.

**AVAILABLE:** Based on the system size, complexity and source water quality, a licensed operator must be on site or able to be contacted as needed to initiate the appropriate action in timely manner.

**AWWA:** The American Water Works Association located at 6666 W. Quincy Avenue, Denver, CO 80235 (303) 794-7711.

**BEST AVAILABLE TECHNOLOGY or BAT:** The best technology, treatment techniques, or other means that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon.

**BOTTLED WATER SUPPLIES:** A non-community supply, covered by CMR 10-144A, Chapter 235.

**BOTTLER SIZE FACTOR:** Category assigned to in-state bottled water companies to determine annual fees assessed by the Department.

**CAPACITY:** The technical, financial and managerial resources of a water system necessary to enable the system to consistently provide safe drinking water for its users.

1. **Technical Capacity:** The physical infrastructure of the water system, including but not limited to source water adequacy, infrastructure adequacy (including wells, source water intakes, and collection, treatment, storage and distribution), and the ability of system personnel to implement the requisite technical knowledge necessary to operate the system to consistently provide safe drinking water.
2. **Financial Capacity:** The financial resources of the water system, including but not limited to revenue sufficiency, credit worthiness and fiscal management and controls.
3. **Managerial Capacity:** The management structure of the water system, including but not limited to ownership accountability, staffing and organization, and the effectiveness of interactions of system personnel with customers, regulators and other entities, and the awareness of system personnel of available external resources, such as technical and financial assistance.

**COAGULATION:** A process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into flocs.

**COMMISSION:** The Maine Public Drinking Water Commission.

**COMMISSIONER:** The Commissioner of the Maine Department of Health and Human Services.

**COMMUNITY WATER SYSTEM:** 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.

**COMPLIANCE PERIOD:** A 3-year calendar year period within a compliance cycle. Each compliance cycle has a 3-year compliance period. For example, within the first compliance cycle, the first compliance period runs from January 1, 1993 to December 31, 1995; the second from January 1, 1996 to December 31, 1998; the third from January 1, 1999 to December 31, 2001.

**COMPREHENSIVE PERFORMANCE EVALUATION (CPE):** A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operational and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with subpart P of this part, the comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

**CONFLUENT GROWTH:** A continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

**CONSECUTIVE PUBLIC WATER SYSTEM:** A public water system that buys or otherwise receives at least some of its finished water from another public water system. Public water systems that are interconnected only for emergencies are not considered “consecutive public water systems.”

**CONTAMINANT:** Any physical, chemical, biological or radiological substance or matter in water.

**CONVENTIONAL FILTRATION TREATMENT:** A series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

**DEPARTMENT:** Maine Department of Health and Human Services.

**DISINFECTION PROFILE:** A summary of daily *Giardia lamblia* inactivation through the treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR § 141.172.

**DISADVANTAGED COMMUNITY:** The service area of a public water system that meets affordability criteria established by the Department after public review and comment.

**DIVISION:** The Division of Environmental Health within the Maine Center for Disease Control and Prevention, Department of Health and Human Services.

**DOSE EQUIVALENT:** The product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

**FILTER PROFILE:** A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

**FUND:** The Public Drinking Water Fund.

**GROSS ALPHA PARTICLE ACTIVITY:** The total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

**GROUND WATER UNDER THE DIRECT INFLUENCE OF SURFACE WATER:** Any water beneath the surface of the ground with significant occurrence of insects or other

macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia* or (for subpart H systems serving at least 10,000 people only) Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the Department. The Department determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation.

**GROSS BETA PARTICLE ACTIVITY:** The total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

**HEARING:** An adjudicatory hearing conducted by the Administrative Hearings Unit within the Department.

**HEARING OFFICER:** An impartial and independent person designated by the Department to conduct hearings.

**HETEROTROPHIC PLATE COUNT:** A laboratory procedure which provides a standardized means of determining the density of bacteria in water.

**ISL:** In-State Large Bottled Water Company serving more than 20 million gallons of bottled water per year.

**ISM:** In-State Medium Bottled Water Company serving more than 250,000 gallons but less than 20 million gallons of bottled water per year.

**ISS:** In-State Small Bottled Water Company serving less than or equal to 250,000 gallons of bottled water per year.

**MAN-MADE BETA PARTICLE AND PHOTON EMITTERS:** All radio nuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radio nuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

**MAXIMUM CONTAMINANT LEVEL:** The maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a public water system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system.

**NEW PUBLIC WATER SUPPLY SOURCE:** “New public water supply source” means any newly constructed well, intake, or other structure intended as a supply of water for a public water system. Any existing well, intake or other structure intended for use as a source of water for a public water system that has not been actively regulated by the Department in the previous 36 months shall be considered a new source. All new sources of water intended for use by a public water system shall be subject to the new source approval provisions of these rules.

**NOTICE OF NON-COMPLIANCE:** A formal written complaint or a notice of violation of state drinking water laws, regulations, or rules.

**NSF/ANSI:** National Sanitation Foundation International and the American National Standards Institute. The American National Standards Institute acts as a certifying agency and determines which laboratories may certify these standards.

**OPERATING SHIFT:** That period of time during which operator decisions that affect public health are necessary for proper operation of the system.

**OUTSTANDING PERFORMANCE:** A system shall be deemed to be in “outstanding performance” if during the time frame covered by the preceding two sanitary surveys, the system did not have any significant deficiencies identified, did not have any failure to monitor violations and met all required testing parameters.

**PER-MACHINE RATE:** The rate used to determine annual fees assessed by the Department for water vending machines.

**PERSON:** An individual, association, 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.

**PICOCURIE (pCi):** That quantity of radioactive material producing 2.22 nuclear transformations per minute.

**PUBLIC WATER SYSTEM:**

A "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.

1. **Community Water System:** A public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
2. **Non-Community Water System:** A public water system that is not a community water system. There are two types of Non-Community Water Systems. These are:

- a. **Non-Transient, Non-Community Water Systems:** A Non-Community water system that 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, and
  - b. **Transient Non-Community Water Systems:** A Non-Community water system that 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, non-community water system.
- B. **Connection:** For purposes of subparagraph (A), a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if –
- (i) the water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);
  - (ii) 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 for drinking and cooking; or
  - (iii) the Commissioner determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally 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 regulations.

**PRIMACY:** 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.

**PROGRAM:** The Maine Public Drinking Water Program.

**REM:** The unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem (mrem)" is 1/1000 of a rem.

**RESPONSIBLE CHARGE:** The Operator(s) in Responsible Charge is defined as the person(s) designated by the owner to be the licensed operator(s) who makes decisions regarding the daily operational activities of a public water system, water treatment facility and/or distribution system, that will directly impact the quality and/or quantity of drinking water.

**SAMPLE; WATER SAMPLE:** An amount of untreated (raw) source water or finished (treated) drinking water that is examined for the presence of a contaminant.

**SANITARY SURVEY:** An on-site review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the protection of the source; and the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water.

**SIGNIFICANT DEFICIENCY:** Any defect in a system's design, operation, maintenance or administration, as well as any failure or malfunction of any system component, that the State determines to cause, or have the potential to cause, an unacceptable risk to health or that could affect the reliable delivery of safe drinking water.

**SUPPLIER OF WATER; WATER SUPPLIER; SUPPLIER:** Any person who owns or operates a public water system.

**SYSTEM:** A public water system.

**SYSTEM DESIGN CAPACITY:** "System Design Capacity" for authorized Community Water Systems withdrawing from surface waters shall be determined by the Department of Health And Human Services as the amount of water that is available for Community Water System purposes expressed as annual withdrawal in total gallons per year taking into consideration actual documented annual withdrawal, and the investments in and limits of the existing system infrastructure, that provides a safe and dependable supply of water for public use. Existing system infrastructure includes water treatment and distribution facilities and other necessary structures that determine how much water can be safely and dependably supplied that is present or in the process of being acquired such as through an investment bond, contractual agreement, or purchase order as of the effective date of 06-096 CMR Chapter 587.

**UNCOVERED FINISHED WATER STORAGE FACILITY:** A tank, reservoir, or other facility used to store water that will undergo no further treatment except residual disinfection and is open to the atmosphere.

**VIOLATION:** Noncompliance with state drinking water laws, regulations and rules regardless of whether that noncompliance is intentional, negligent or otherwise.

**VOLUME SOLD MULTIPLIER:** The factor used to determine the amount of annual fees assessed to out-of-state bottled water companies by the Department

### SECTION 3: FACILITIES APPROVAL

Before a person initiates construction of a new public water system, or modifies any existing system in a manner which may affect the quality of water produced, that person, pursuant to 22 M.R.S.A., Section 2612, shall submit such proposals to the Department for approval.

#### A. Review Period

All plans submitted under this section shall be submitted in a timely manner to allow the Department at least a 30-day review period. Such submission shall be made at least 30 days prior to the bid opening and at least 45 days prior to the start of construction of the project.

#### B. Siting Requirements

1. See Section (7)(A)(5).

#### C. Plan Submission

1. Submission of Engineering Plans
  - a. No new construction, addition, or alteration involving the source, treatment, or storage of water in any system shall be commenced until the plans and specifications have been submitted to and approved in writing by the Department (per the review schedule stated in A. above), unless such construction, addition, or alteration is exempted by paragraph 3 of this sub-section. In granting approval of plans and specifications, the Department may require modifications, conditions, or procedures to insure, as far as feasible, the protection of the public health.
  - b. Changes in treatment processes which involve the addition or deletion of any chemicals require prior approval by the Department.
  - c. The Water System shall provide the Department for review documentation of the preliminary engineering estimates of the costs of siting, engineering and operating the utility's proposed facility or water treatment system, or modification or alteration of any existing system, including identification of the costs of all modifications to existing waterworks, justification of the water utility's proposal and such further information as may be requested by the Department;
  - d. For the purposes of comparison with the proposal submitted pursuant to paragraph (a), the Water System shall provide the Department with documentation of the preliminary engineering estimates of the costs of siting, engineering and operating the next best alternative facility or water

treatment system, or modification or alteration of any existing system, including identification of the costs of all modifications to existing waterworks and such other information as may be requested by the commissioner;

- e. The Water System shall make available for public review upon request at a location and in a manner convenient to the water utility's ratepayers all information provided to the Department pursuant to paragraphs (a) and (b).

## 2. Preparation of Engineering Plans

- a. Plans and specifications for Public Water Systems shall be prepared by a qualified professional and shall bear the seal of a professional engineer as required by 32 M.R.S.A., Chapter 19.

## 3. Exemptions

- a. The following activities are exempt from the requirement for approval by the Department:
  - i. Maintenance activities for existing facilities, which do not involve the storage or treatment of finished water, i.e., water that has been processed (filtered, treated, etc.) and is available for human consumption.
  - ii. Replacement of water mains or installation of new water mains provided they are disinfected and pressure tested in accordance with the AWWA Standards indicated in section F.

Examples of items that should be reported to and approved by the Department include, but are not limited to the painting and/or repair of standpipes, reservoirs, or any storage facility that has contact with finished water.

## D. General Operations Permit

- 1. Any new community or non-transient, non-community public water system commencing operation after October 1, 1999, must first obtain a General Operations Permit from the Department.
  - a. The owner of a new community or new non-transient, non-community public water system must secure a General Operations Permit after demonstrating satisfactory capacity, and prior to operation of the system.
  - b. To obtain a General Operations Permit for a new community or non-transient, non community public water system, the owner, or the owner's

designee, must submit sufficient plans, specifications, and documentation to ensure adequate technical, financial and managerial capacity.

- c. Applications for General Operations Permits must be made on forms provided by the Department. These forms must be submitted and approved by the Department before the public water system begins operations.
- 2. In the event that a public water system requiring a permit is ready to begin operation before receiving the General Operations Permit, the Drinking Water Program may, at its discretion, issue a conditional, temporary permit.
    - a. A conditional, temporary permit will be issued with a defined deadline of 30, 60, or 90 days. Only one conditional, temporary permit will be issued for each new community or non-transient, non-community water system.
    - b. Public water systems must demonstrate capacity and secure a General Operations Permit at the expiration of a conditional, temporary permit.

#### E. Demonstration of Capacity

The following public water systems must first obtain a General Operations Permit from the Department by demonstrating technical, managerial, and financial capacity: new community and non-transient, non-community water systems commencing operation after October 1, 1999; and transient, non-community water systems with surface water sources.

- 1. Technical Capacity may be demonstrated by a number of methods including but not limited to:
  - a. engineering plans or schematics and drawings of treatment facilities;
  - b. adequate drawings, diagrams, schematics and maps of the distribution system or plumbing components;
  - c. an adequate number of state-licensed operators of the requisite classification;
  - d. source water protection plans and maps of the watershed or wellhead protection area; and
  - e. any other relevant documentation requested by the Department.
- 2. Financial Capacity may be demonstrated by a number of methods including but not limited to:
  - a. annual and projected budgets;
  - b. identification of individual(s) responsible for water system operations, including procedures related to financial decisions effecting the water system;
  - c. copies of rate case determination documents for water systems regulated by the Public Utilities Commission; and
  - d. any other relevant financial information requested by the Department.

3. Managerial Capacity may be demonstrated by a number of actions including but not limited to:
  - a. knowledge of the number of water system service connections and the population served, recorded on the permit application form;
  - b. clear, definitive identification of the water system owner(s);
  - c. identification of the primary contact person(s) responsible for communicating with the Department;
  - d. identification of personnel responsible for daily operations of the water system;
  - e. plans for continuing education, training or professional development of staff;
  - f. formalized routine operations and maintenance procedures in the form of written standard operating procedures and policies;
  - g. description of record keeping procedures employed;
  - h. written emergency procedures and/or an emergency response plan, including identification of persons or organizations contacted in the event of an emergency; and
  - i. any other relevant information requested by the Department.

F. Construction Standards

1. Applicable standards such as those established by the American Water Works Association (AWWA), the Recommended Standards for Water Works, and NSF / ANSI Standards for Drinking Water Treatment Units should be consulted when available, as well as engineering standards published by other generally accepted organizations.
2. Disinfection
  - a. The AWWA C-651-05 specification for the disinfection of water mains shall be utilized for all water main construction except that the "tablet method" shall not be used unless specifically approved in writing by the Department.
  - b. AWWA C-652-02 specification for the disinfection of water storage facilities shall be utilized prior to having any storage facility go into service.
  - c. AWWA C-653-03 shall be utilized for disinfection of water treatment plants prior to providing water for consumption.
  - d. AWWA C-654-03 shall be utilized for the disinfection of wells prior to the use of those wells as a source of public drinking water.
3. All water mains and services being used for the purposes of transporting potable water shall be pressure tested in accordance with AWWA Standard for pressure testing.

4. The Department may from time to time establish lists of acceptable products for use in the water works industry.
5. Well Construction
  - a. All newly constructed wells shall be constructed per one of the following standards: AWWA's Standard A100-06, Recommended Standards for Water Works, 2003 Edition or the National Ground Water Association's Manual of Water Well Construction Practices (2<sup>nd</sup> Edition). In the event that one of these standards conflict with state or federal rules, the state or federal rules shall take precedent.
  - b. Newly constructed wells serving community and non-transient, non community water systems shall be sealed using bentonite-based grouts per one of the standards listed above. Well casings shall be fully grouted. Variances to these standards must receive prior approval from the Department.
6. Abandonment of Wells
  - a. The Department may require a public water system to abandon a well if the Department determines that the well constitutes a significant threat to public health. Abandonment shall meet the requirements of CMR Chapter 232 Well Drillers and Pump Installers Rules.
7. NSF/ANSI Standard 60:

By July 1, 2008, all chemicals added to drinking water shall be certified to meet NSF/ANSI Standard 60 - 2005: Drinking Water Treatment Chemicals – Health Effects. Certification shall be by an ANSI-Accredited, third-party testing and certification organization. Repackaged chemicals may be waived from this requirement until July 1, 2009 provided that the chemical when originally manufactured meets NSF/ANSI Standard 60-2005.

  - a. Evidence for this requirement shall be met if the chemical shipping container labels or material safety data sheets include:
    - i. Chemical name, purity and concentrations, Supplier name and address, and
    - ii. Labeling indicating compliance with NSF/ANSI Standard 60.
  - b. Compliance with these standards shall be met at the point of delivery.
8. NSF/ANSI Standard 61:

All materials, products and coatings that contact drinking water installed or applied after July 1, 2008 shall be certified to meet NSF/ANSI Standard 61-2007: Drinking

Water System Components – Health Effects. Certification shall be by an ANSI-Accredited, third-party testing and certification organization.

- a. Exemption may include the following:
    - i. Miscellaneous valves and fittings, three inch diameter and smaller, may be exempt from this requirement if NSF/ANSI 61 Certified products are not readily available;
    - ii. Steel well casing;
    - iii. Existing stocks of materials. When stocks need to be reordered the new materials must comply with this section;
    - iv. A concrete structure, tank, or treatment tank basin constructed onsite that is not normally coated or sealed. If a coating or sealant is specified by the design engineer, the coating or sealant shall be certified to comply with ANSI/NSF Standard 61;
    - v. An earthen reservoir or canal located upstream of water treatment;
    - vi. A synthetic tank constructed of material that meets Food and Drug Administration standards for a material that comes into contact with drinking water or aqueous food, or a galvanized steel tank, either of which is:
      - 1. Less than 15,000 gallons in capacity, and
      - 2. Used in a public water system with 500 or fewer service connections; or
    - vii. A pipe, treatment plant component, or water distribution system component made of lead-free stainless steel.
9. All new community and non-transient, non-community public water systems shall install a flow meter that will provide continuous, cumulative measurement of the water system flow and maintain records of flow.
10. All new public water supplies shall have a raw water (prior to any treatment or storage) sampling port.

#### G. New Sources

- 1. Surface Water Supplies
  - a. Plans for the protection of surface supply watersheds shall be submitted prior to the approval of any surface water supply. These plans shall include the following:
    - i. A description of public education procedures and materials the system plans to implement or distribute to inform its consumers and all parties that come in contact with the watershed or water supply of watershed issues that affect the water quality of the surface water supply.

- ii. The duly responsible person of the public water system shall to the satisfaction of the Department demonstrate sufficient control over the watershed. Sufficient control shall be deemed as either:
    - 1) ownership of the property;
    - 2) a contractual agreement with the owners of the property that ensures that the surface water supply shall not be negatively impacted by the watershed; or
    - 3) a plan presented to the Department for approval showing how the watershed shall be sufficiently protected. The plan shall be submitted to the Department in writing and be prepared by an appropriate individual qualified to prepare such a plan.
  - iii. A description of other appropriate protection measures to assure that the source will maintain high quality water.
- b. Maps shall be submitted with the request for approval, which show the watershed area delineation and potential sources of contamination and their types and land ownership. Potential sources of contamination should include but not be limited to sanitary landfills, dumps, oil storage facilities, chemical storage facilities, septage disposal areas, spray irrigation areas, farming operations which utilize large amounts of pesticides, all enterprises which require hazardous waste permits, major industries, highways commonly used in the transport of hazardous materials, and any appropriate zoning delineations.
- c. Analysis
- i. Untreated water samples shall be analyzed, prior to source approval, by a certified laboratory for parameters contained in Section (7)(C). In addition, untreated water samples shall be analyzed, prior to source approval, for the following parameters:
    - Alkalinity;
    - Gross Alpha;
    - Iron;
    - Manganese; and
    - Sodium and Zinc.
  - ii. Analyses for these factors shall be performed by a certified laboratory.

- iii. Water quality measurements for turbidity, free chlorine residual, temperature and pH may be performed by any person acceptable to the Department. The ability of individuals to properly conduct tests for these parameters shall be evaluated by program staff during sanitary surveys.
  - iv. The above paragraph may be superseded on the effective date of the promulgation of rules relating to laboratory certification by the Health and Environmental Testing Laboratory as authorized by 22 MRSA Chapter 157-A.
  - d. Treatment Required (See Section (7)(H) regarding filtration and disinfection requirements)
  - e. All new community surface water systems shall evaluate their System Design Capacity and submit to the Department for review a report on forms provided by the Department. The Department shall determine System Design Capacity for each surface water source as part of new system and source approval.
2. Ground Water Supplies
- a. Transient Non-Community Water Systems and Non-Transient Non-Community Water Systems
    - i. Transient Non-Community Water Systems and Non-Transient Non-Community Water Systems shall submit a completed Preliminary Approval Form (Note: the Form can be obtained from the Department) along with required documentation at least 30 days prior to the proposed date of installation. Required documentation shall include the Preliminary Approval Form, a location map and a site plan showing all potential sources of contamination within 300 feet of the proposed well location. Other documentation may be requested on a case-by-case basis if the Department makes the determination that such information is necessary to get a better understanding of the conditions of the proposed well location or otherwise for the protection of the public health.
    - ii. The Preliminary Approval Form shall be reviewed by the Department to determine the adequacy of the well location to provide safe and healthy drinking water to the public. No production well shall be installed prior to preliminary approval being granted in writing by the Department.

- iii. New wells shall be located at least 300 feet away from potential contamination sources and at least 1,000 feet from Underground Storage Tanks regulated by the Department of Environmental Protection (DEP) Chapter 691, unless a waiver is obtained from the Department and DEP.
- iv. If circumstances exist where a proposed well location must be placed closer than 300 feet from a potential contamination source, then the Department may grant a setback waiver on a case-by-case basis. The Department must receive information from an appropriate qualified professional sufficient to make a determination on all waiver requests. Any well proposed less than 150 feet from one or more subsurface disposal fields must include a Maine Certified Geologist's hydrogeologic assessment presented to the Department for review and approval, which must include a description of the local surficial geology, a pre-pumping water table contour map, a map showing the water table contours under pumping conditions and an evaluation of the site's physical characteristics which mitigate any potential impacts to the well from the disposal field(s), or submit plans for an Advanced Treatment Unit (ATU) designed to pre-treat all septic system effluent prior to discharge to the septic system disposal field, to be reviewed and evaluated by the Subsurface and Wastewater Program. Any pretreatment system proposed as mitigation for reduced setbacks from septic system components must be shown to significantly reduce nitrate, nitrite, and bacteria levels and include a plan for ongoing maintenance. The Department may waive these requirements on a case-by-case review or require additional to insure the suitability of the proposed well for use as a public water supply source. The Department may place conditions on a waiver granted, which may include increased water quality monitoring for specific contaminants at a schedule and frequency to be determined by the Department.
- v. Treatment for all new wells may also be required as described in Section (3)(G)(2.j.).
- vi. The Department may deny a proposed well location after determining that a proposed well location is not safe from threats of contamination or potential threats of contamination even with increased monitoring for those contaminants.
- vii. For all proposed wells a prolonged pump test of not less than 48 hours shall be performed terminating when the safe yield of the well can be reasonably estimated. The process for determining safe yield shall be approved by the Department prior to drilling the

well. All water quality samples shall be collected at the conclusion of the pump test. The Department may require a report be prepared by an appropriately qualified person or firm evaluating the well which may include: a description of the site geology and any sources of contamination in the area; a map of the area showing all wells installed and any potential sources of contamination in the area; drilling logs for each well installed; pump test drawdown data if available; recommendations for wellhead protection area delineations; and all required water quality analysis results. The report shall be submitted to the Department for review with the request for Final Approval.

- viii. Final Approval of the proposed well location may be granted only after all required water quality analyses have been completed and it is further determined that the well is in compliance with all applicable Primary Drinking Water Regulations.
  - ix. A Final Approval Form or equivalent must be submitted along with all water quality analyses results, any maps or reports required and a completed Wellhead Protection Self Evaluation Form to the Department for review and approval. Wellhead protection area delineations must be made using one or more methodologies approved by the Department.
  - x. Unless final approval of the proposed well is granted in writing by the Department, no water may be served. The Department may grant conditional approval on a case-by-case basis. The Department may also require additional treatment, testing or other requirement that the Department deems necessary for the protection of the public health.
- b. Water quality analyses to be completed for Non-Transient Non-Community Water Systems prior to Final Approval of all proposed wells.
- i. Untreated water samples shall be analyzed, prior to source approval and after a prolonged pump test, by a certified laboratory for the following parameters:

**Inorganic parameters:** nitrate, nitrite, chloride, hardness, fluoride, copper, iron, manganese, zinc, arsenic, barium, cadmium, chromium, lead, mercury, silver, selenium, sodium, color, nickel, antimony, beryllium, sulfate, cyanide, thallium and turbidity;

**Volatile Organic Compounds:** EPA method 502.2; 524.2

**Semi-volatile Organics Screen:** EPA method 525.1; 525.2

**Herbicide Screen:** EPA method 515.1;

**Carbamate Pesticide Screen:** EPA method 531.1;

**Pesticide Screen:** EPA method 508; and  
**Radionuclides:** gross alpha, uranium, radium, and radon.

- ii. Analyses for these parameters shall be performed by a certified laboratory.
  - iii. The Department may modify the list of required water quality test parameters prior to approval if the determination is made that the testing required will insure that the well can produce safe and potable water or otherwise for the protection of the public health.
  - iv. Coliform bacteria tests are required monthly for a minimum of 6 months. After 6 months of coliform bacteria testing, the system may petition the Department in writing for reduced coliform bacteria testing.
- c. Water quality analyses to be completed for Transient Non-Community Water Systems prior to Final Approval of all proposed new wells:
- a. Total Coliform
  - b. Inorganics regulated by the Department
  - c. Volatile Organics regulated by the Department
- i. Analyses for these parameters shall be performed by a certified laboratory.
  - ii. The Department may modify the list of required water quality parameters prior to approval if the determination is made that the testing required will insure that the well can produce safe and potable water or otherwise for the protection of the public health.
  - iii. Coliform bacteria tests are required monthly for a minimum of 6 months. After 6 months of coliform bacteria testing, the system may petition the Department in writing for reduced coliform bacteria testing.
- d. Community Public Water Systems Serving Less Than 250 People
- i. Community Public Water Systems serving less than 250 people shall submit a completed Preliminary Approval Form (Note: the Preliminary Approval Form may be obtained from the Department) for each proposed well along with required documentation at least 30 days prior to the proposed date of installation. Required documentation shall include but is not limited to the following: the

Preliminary Approval Form, location map, estimated quantity of water required from the well in gallons per minute or gallons per day, and a site plan showing all potential sources of contamination within 1000 feet of the well. The Department may require a preliminary hydrogeologic investigation of a well location if the Department makes the determination that additional information is necessary to evaluate the adequacy of the site to provide a safe and healthful supply of water to the public or otherwise to protect the public health.

- ii. The Preliminary Approval Form shall be reviewed by the Department to determine the adequacy of the well location to provide safe and healthy drinking water to the public. No production well shall be installed prior to preliminary approval being granted in writing by the Department.
- iii. New wells shall be located at least 300 feet away from potential contamination sources and at least 1,000 feet from Underground Storage Tanks regulated by DEP Chapter 691, unless a waiver is obtained from the Department and DEP.
- iv. If circumstances exist where a proposed well location must be placed closer than 300 feet from a potential contamination source then the Department may grant a setback waiver on a case-by-case basis. The Department must receive information from an appropriate qualified professional sufficient to make a determination on all waiver requests. Any well proposed less than 150 feet from one or more subsurface disposal fields must include a Maine Certified Geologist's hydrogeologic assessment that is presented to the Department for review and approval, which includes a description of the local surficial geology, a pre-pumping water table contour map, a map showing the water table contours under pumping conditions and an evaluation of the physical characteristics of the site which mitigate any potential impacts to the well from the disposal field(s), or submit plans for an Advanced Treatment Unit (ATU) designed to pre-treat all septic system effluent prior to discharge to the septic system disposal field, to be reviewed and evaluated by the Subsurface and Wastewater Program. Any pretreatment system proposed as mitigation for reduced setbacks from septic system components must be shown to significantly reduce nitrate, nitrite and bacteria levels and include a plan for ongoing maintenance. The Department may waive these requirements on a case-by-case review or require additional information to insure the suitability of the proposed well for use as a public water supply source. The Department may place conditions on a waiver granted, which may

include increased water quality monitoring for specific contaminants at a schedule and frequency to be determined by the Department.

- v. Treatment for all new wells may also be required as described in Section(3)(G)(2.j.).
- vi. The Department may deny a proposed well location after determining that a proposed well location is not safe from threats of contamination or potential threats of contamination even with increased monitoring for those contaminants.
- vii. For all proposed wells a prolonged pump test of not less than 48 hours shall be performed terminating when the safe yield of the well can be reasonably estimated. The process for determining safe yield shall be approved by the Department prior to drilling the well. All water quality samples shall be collected at the conclusion of the pump test. The Department may require a report be prepared by a Certified Geologist or Professional Engineer evaluating the well which may include: a description of the site geology and any sources of contamination in the area; a map of the area showing all wells installed and any potential sources of contamination in the protection areas; drilling logs for each well installed; pump test drawdown data if available; recommendations for wellhead protection area delineations; and all required water quality analysis results. The report shall be submitted to the Department for review with the request for Final Approval.
- viii. A. For all production wells for community water systems serving less than 250 people the owner, operator or other duly responsible representative of the public water supply shall by some legal document acquire sufficient land use controls of, at least, all land within the minimum wellhead protection areas specified in the pump test report prior to Final Approval. Sufficient land use control shall be deemed as either:
  - 1) Ownership of the property;
  - 2) A contractual agreement or easement with the owners of the property that ensures that the well shall not be negatively impacted by activities in the contributing area; or
  - 3) A plan presented to the Department for review and approval showing how the contributing area shall be sufficiently protected. The plan shall be submitted to the Department in writing and be prepared by an appropriately qualified individual.

- B. In addition, a description of public education procedures and materials the system plans to implement or distribute to inform its consumers and owners of property within the identified protection areas of water quality and wellhead protection issues shall be provided to the Department. The Department may provide technical assistance to water systems drafting these educational strategies.
- ix. Final Approval of the proposed well location may be granted only after all required water quality analyses have been completed and it is further determined that the well is in compliance with all applicable Primary Drinking Water Regulations.
  - x. A Final Approval Form or equivalent must be submitted along with all water quality analysis results, evidence of land use controls (viii), all required maps and reports and a completed Wellhead Protection Self Evaluation Form to the Department for review and approval.
  - xi. Unless final approval of the proposed well is granted in writing by the Department, no water may be served. The Department may grant conditional approval on a case-by-case basis. The Department may also require additional treatment, testing or other requirements that the Department deems necessary for the protection of the public health.
- e. Water quality analyses to be completed for Community Water Systems Serving Less Than 250 People
- i. Untreated water samples shall be analyzed, prior to source approval, by a certified laboratory for the following parameters:
    - Inorganic parameters:** nitrate, nitrite, chloride, hardness, fluoride, copper, iron, manganese, zinc, arsenic, barium, cadmium, chromium, lead, mercury, silver, selenium, sodium, color, nickel, antimony, beryllium, sulfate, cyanide, thallium and turbidity;
    - Volatile Organic Compounds:** EPA method 502.2; 524.2
    - Semi-volatile Organics Screen:** EPA method 525.1; 525.2
    - Herbicide Screen:** EPA method 515.1;
    - Carbamate Pesticide Screen:** EPA method 531.1;
    - Pesticide Screen:** EPA method 508; and
    - Radionuclides:** gross alpha, uranium, radium, and radon.

Analyses for these parameters shall be performed by a certified laboratory.

- ii. The Department may modify the list of required water quality parameters prior to approval if the determination is made that the testing required will insure that the well can produce safe and potable water or otherwise for the protection of the public health.
  - iii. Coliform bacteria tests are required monthly for a minimum of 6 months. After 6 months of coliform bacteria testing, the system may petition the Department in writing for reduced coliform bacteria testing.
- f. Community Public Water Systems Serving 250 People or More
- i. Community Public Water Systems serving 250 people or more shall submit a completed Preliminary Approval Form (Note: the Preliminary Approval Form may be obtained from the Department) along with required documentation at least 30 days prior to the proposed date of installation. Required documentation shall include but is not limited to the following: the Preliminary Approval Form, location map, estimated quantity of water required from the well in gallons per minute, and a site plan showing all potential sources of contamination within 2,500 feet of the proposed well location. The Department may require a preliminary hydrogeologic investigation of a site if it determines that additional information is required to evaluate the adequacy of the well to provide a safe and healthful supply of water to the public or otherwise to protect the public health.
  - ii. The Preliminary Approval Form shall be reviewed by the Department to determine the adequacy of the well location to provide safe and healthy drinking water to the public. No production well shall be installed prior to Preliminary Approval being granted by the Department.
  - iii. New wells shall be located at least 300 feet away from potential contamination sources and at least 1,000 feet from Underground Storage Tanks regulated by DEP Chapter 691, unless a waiver is obtained from the Department and DEP. If the Department determines that a setback distance greater than 300 feet is required to protect public health, a greater setback distance may be required.
  - iv. If circumstances exist where a proposed well location must be placed closer than the setback distance of 300 feet from a potential contamination source then the Department may grant a setback waiver on a case-by-case basis. The Department must receive information from an appropriate qualified professional sufficient to make a determination on all waiver requests. Any well proposed

less than 150 feet from one or more subsurface disposal fields must include a Maine Certified Geologist's hydrogeologic assessment that is presented to the Department for review and approval, which includes a description of the local surficial geology, a pre-pumping water table contour map, a map showing the water table contours under pumping conditions and an evaluation of the physical characteristics of the site which mitigate any potential impacts to the well from the disposal field(s), or submit plans for an Advanced Treatment Unit (ATU) designed to pre-treat all septic system effluent prior to discharge to the septic system disposal field, to be reviewed and evaluated by the Subsurface and Wastewater Program. Any pretreatment system proposed as mitigation for reduced setbacks from septic system components must be shown to significantly reduce nitrate, nitrite, and bacteria levels and include a plan for ongoing maintenance. The Department may waive these requirements on a case-by-case review or require additional information to insure the suitability of the proposed well for use as a public water supply source. The Department may place conditions on a setback waiver which may include increased water quality monitoring for specific contaminants at a schedule and frequency to be determined by the Department.

- v. Treatment for all new wells may also be required as described in Section(3)(G)(2.j.).
- vi. The Department may deny a proposed well location after determining that a proposed well location is not safe from threats of contamination or potential threats of contamination even with increased monitoring for those contaminants.
- vii. For all proposed wells, a prolonged pump test shall be required prior to Final Approval. The requirements of the pump test are described in subsequent parts of this section.
- viii. For all production wells for community water systems serving more than 250 people a plan showing all test well locations and a description of the pump test methodology shall be submitted to the Drinking Water Program for approval at least two weeks prior to the running of the prolonged pump test. Drawdown readings must be taken in the production well.
- ix. For all surficial wells the pump test shall be run for at least 48 hours and continue until stabilization has been reached or for 5 days, whichever is less. Stabilization is considered to be reached when the drawdown reading at an observation well near the

production well or the production well has not varied by more than 1/2 inch during the preceding 24 hour period. An alternative definition of stabilization may be proposed by the applicant and must be reviewed and approved by the Department prior to implementation. The proposal must be prepared by an appropriately qualified person or firm.

- x. For all surficial wells, a report describing and evaluating the pump test shall be prepared by an appropriately qualified person or firm and shall include: a description of the site geology and all potential sources of contamination in the area; a map showing the locations of all monitoring and production wells used for the pump test, the pre-pumping ground water contours, potential sources of contamination in the area; a map showing ground water contours under pumping conditions; and wellhead protection area delineations. Wellhead protection area delineations must be made using one or more methodologies approved by the Department.
- xi. For all surficial wells, the safe yield, area of influence, and minimum protective zone of the well must be presented in the pump test report.
- xii. For all bedrock wells, a prolonged pump test of not less than 48 hours shall be performed terminating when the safe yield of the well can be reasonably estimated by an appropriately qualified person of firm.
- xiii. For all bedrock wells, a report describing and evaluating the pump test shall be prepared by a Certified Geologist or Professional Engineer and shall include: a description of the site geology and all potential sources of contamination in the area; a map showing the locations of all monitoring and production wells, and recommendations for wellhead protection.
- xiv. A. For all production wells, for community water systems serving more than 250 people the owner, operator or other duly responsible representative of the public water supply shall by some legal document acquire sufficient land use controls of, at least, all land within the minimum wellhead protection areas specified in the pump test report prior to Final Approval. Sufficient land use control shall be deemed as either:
  - 1) Ownership of the property;
  - 2) A contractual agreement or easement with the owners of the property that ensures that the well shall not be negatively impacted by activities in the contributing area; or

- 3) A plan presented to the Department for review and approval showing how the contributing area shall be sufficiently protected. The plan shall be submitted to the Department in writing and be prepared by an appropriately qualified individual.

B. In addition, a description of public education procedures and materials the system plans to implement or distribute to inform its consumers and owners of property within the identified protection areas of water quality and wellhead protection issues shall be provided to the Department. The Department may provide technical assistance to water systems drafting these educational strategies.

- xv. Water quality samples are to be collected at the conclusion of the prolonged pump test. Final Approval of the proposed well may be granted only after all required water quality analyses have been completed and it is further determined that the well is in compliance with all applicable Primary Drinking Water Regulations.
  - xvi. A Final Approval Form or equivalent must be submitted along with all water quality analyses results, evidence of land use controls (xiv), all required maps and reports and a completed Wellhead Protection Self Evaluation Form to the Department for review and approval.
  - xvii. Unless final approval of the proposed well is granted in writing by the Department, no water may be served. The Department may grant conditional approval on a case-by-case basis. The Department may also require additional treatment, testing or other requirements that the Department deems necessary for the protection of the public health.
- g. Water quality parameters to be completed for all Community Water Systems Serving More Than 250 People.
- i. Untreated water samples shall be analyzed, prior to source approval and after a prolonged pump test, by a certified laboratory for the following parameters:
 

**Inorganic parameters:** nitrate, nitrite, chloride, hardness, fluoride, copper, iron, manganese, zinc, arsenic, barium, cadmium, chromium, lead, mercury, silver, selenium, sodium, color, nickel, antimony, beryllium, sulfate, cyanide, thallium and turbidity;

**Volatile Organic Compounds:** EPA method 502.2; 524.2

**Semi-volatile Organics Screen:** EPA method 525.1; 525.2

**Herbicide Screen:** EPA method 515.1;

**Carbamate Pesticide Screen:** EPA method 531.1;

**Pesticide Screen:** EPA method 508; and

**Radionuclides:** gross alpha, uranium, radium, and radon.

- ii. Analyses for these parameters shall be performed by a certified laboratory.
  - iii. The Department may modify the list of required water quality parameters prior to approval if the determination is made that the testing required will insure that the well can produce safe and potable water or otherwise for the protection of the public health.
  - iv. Coliform bacteria tests are required monthly for a minimum of 6 months. After 6 months of coliform bacteria testing, the system may petition the Department in writing for reduced coliform bacteria testing.
- h. New Dug Wells and Springs for all Public Water Systems.
- i. All proposed dug wells and springs shall be considered surface water supplies and must meet the requirements of the surface water source approval section of these rules (Section 3 (E)(1)).
- i. Well Termination
- i. All public water system wells shall terminate no less than 18 inches above the ground surface or be contained in a sealed, water tight pit, be fitted with a sanitary seal and have a protected vent.
- j. Treatment Required
- i. All community water systems that use ground water sources and serve municipalities and/or districts shall have chlorination facilities.
  - ii. All new community ground water supplies serving municipalities and/or districts shall be continuously chlorinated for a period of not less than two (2) months following initial utilization.
  - iii. Prior to source approval, a treatment technique, approved by the Department, shall be installed for any contaminant found to be in excess of the maximum contaminant level. This section shall not apply to sodium. See Section (7)(E)(2) regarding sodium.

- iv. The Department may, at its option, require the installation of treatment equipment if a contaminant is present in sufficient quantity to constitute a public health concern in the future, even if the contaminant level does not exceed the current maximum contaminant level. The Department, in such cases, shall provide opportunity for appeals, hearings and reviews.
- v. All public drinking water supplies determined to be ground water sources under the direct influence of surface waters shall comply with the requirements listed in Section (7)(H) regarding filtration and disinfection.
- k. Review period for plans submitted either for preliminary or final well approval.
  - i. The Department will review and make a decision on an application within 30 days. The review and approval period shall begin after the Department has received all information requested and the information provided is sufficient for the Department to make an informed decision.

## H. Existing Sources

### 1. Surface Water Systems

- a. All existing public surface water systems, including systems serving ground water under the direct influence of surface water, shall be filtered and continuously disinfected with chlorine or by some other means approved by the Department unless the water system meets all criteria for avoiding filtration (See Section (7)(H) regarding filtration and disinfection requirements).
- b. Areas within 200 feet of intakes should be land-use restricted by means of deed, easement, or other legal document.
- c. Unfiltered public water systems serving surface water and/or ground water under the direct influence of surface water shall have a sanitary survey of the watershed conducted at reasonable intervals, with a report of said survey submitted to the Department. Such a watershed survey should include an annual inspection of the watershed and should evaluate water source protection, associated facilities and equipment and review operational procedures and maintenance records for the purpose of evaluating the adequacy of programs and procedures, such as source water protection, facilities and equipment operations and maintenance, etc., to produce and distribute safe drinking water. (See Section (7)(H)(1-6), i.e., 40 CFR Sections 141.70 through 141.75 for additional information.)

- d. All community surface water supplies shall evaluate their System Design Capacity and submit a report on forms provided by the Department by September 1, 2008 to the Department for review. The Department shall determine System Design Capacity for each surface water supply by August 30, 2009.

## 2. Ground Water Systems

- a. All community water systems using ground water sources shall have facilities for chlorination.
- b. Hazardous chemicals (e.g. pesticides and degreasers) shall not be used or stored in the proximity of the well except when used in water treatment.
- c. Any hazardous chemical used in water treatment shall be stored in such a manner that it will be completely contained and not enter the aquifer.
- d. The occurrence of spills of hazardous substances within the wellhead protection area shall be immediately reported to the Department by the water supplier upon knowledge of such an accident.
- e. All discharges from water softeners or other treatment techniques shall be made in an approved manner.
- f. All community water system wells shall have a watertight well cap at the termination of the well casing.

## I. Protective Measures

1. Public water suppliers shall have an active program for watershed and wellhead protection. Emergency response plans shall be designed by the respective supplies. The Department will provide guidance these areas.
2. The occurrence of spills of hazardous substances within the watershed shall be immediately reported to the Department by the water supply upon knowledge of such an incident. Emergencies may be reported to the Division of Environmental Health, Drinking Water Program at (207) 287-2070 during normal office hours, or at the 24 hour emergency number (207) 557-4214.

## J. Other Testing Requirements for Transient Non-Community Water Systems

1. Transient non-community water systems which operate on a seasonal basis, such as ski areas, campgrounds or others so designated by the Department, shall conduct required water quality testing and submit results to the Department within the first 30 days of operation of the system.

2. A new transient-non-community water system must complete appropriate tests required in these rules prior to utilizing the source as a water supply. A new water supply shall be defined as a system that has not been regulated in 3 years or is a new water source to the Department.

## SECTION 4: OPERATION, MAINTENANCE AND DISINFECTION

### A. Water Pressure

All community water systems shall be operated and maintained to provide minimum positive pressure of 20 p.s.i. at the curb cock, except as otherwise provided for in limited service agreements.

### B. Covered Reservoirs

All finished water reservoirs shall be covered and the vents to the reservoirs shall be adequately screened. Variances to this sub-section shall not be allowed.

### C. Flushing

1. Newly constructed water distribution mains and finished water storage facilities shall be flushed and disinfected before use in accordance with the appropriate AWWA standard (See Section (3)(F)(2)).
2. No spring basin, collecting basin, well, infiltration gallery, water main, pump, standpipe or reservoir shall be placed in service following cleaning or repairs until it has been properly disinfected.

### D. Disinfection

When any water system fails to meet the proper coliform level, the Department may designate the disinfectant residual or application rate to be maintained by the system. Ground water supplies may be required by the Department to be disinfected. Disinfection residual compliance measurements may be done by use of a DPD colorimetric test kit or any other method as approved by the Department. All treatment techniques shall be approved by the Department.

### E. Separations and Crossings of Water Mains and Sewers

1. Water mains shall be laid at least 10 feet horizontally from any existing or proposed sewer measured edge to edge. In cases where it is not practical to maintain a ten foot separation, the Department may allow a waiver to this requirement on a case-by-case basis if supported by data from the design engineer. Such waivers may allow installation of the water main closer to a sewer, provided that the water main is laid in a separate trench or on an undisturbed earth shelf located on one side of the sewer at such an elevation that the bottom of the water main is at least 18 inches above the top of the sewer. Concrete encasement of the sewer joints may be required.

2. Water mains crossing sewers shall be laid to provide a minimum vertical distance of 18 inches of free earth between the water main and the sewer. This shall be the case where the water main is either above or below the sewer. At crossings, one full length of water pipe shall be located so both joints will be as far from the sewer as possible. Special structural support for the water and sewer pipes may be required. In such crossings the Department may require sewer pipe of like material as the water pipe, plus concrete encasement.
3. There shall be at least a 10 foot horizontal separation between water mains and existing or future sanitary sewer force mains. There shall be an 18-inch vertical separation at crossings as required in (4)(E)(2).
4. No water pipe shall pass through or come in contact with any part of a sewer manhole.

#### F. Permits For Cross-Connection

No cross-connection shall be installed by any person, firm, or corporation taking water from a community water system until after an application for a cross-connection permit (HHE-616) and a permit to install such cross-connection has been approved for issuance by the Department. Cross-connection permits shall be issued in accordance with 10-144A CMR 226, Cross-Connection Rules.

#### G. Hydrants

All new or replacement hydrants shall be of the type having no drain or shall have the drain plugged prior to installation. The barrels of the hydrants shall be pumped dry during freezing weather or protected with propylene glycol or food safe glycerin.

#### H. Curb Stops

Curb stops (Curb Cocks) for new or replacement installations shall be of the type manufactured with pluggable drains and plugged or without drain holes.

#### I. Emergency Changes

1. The supplier of water shall not take, use, or cause to be taken for use water from any alternate source or change other treatment processes which involve the addition or deletion of any chemicals without the approval of the Department. The Department shall advise the supplier of water and interested local officials of the approved action or proposed action by the supplier of water to protect the public health. If there is no person from the Department available at the time of an emergency, such action shall be taken only by a designated operator, licensed by the Department, who shall notify the Department at the earliest possible business hour.

2. A printed copy of this section shall be conspicuously posted by the supplier of water and shall be readily available to any water supply operator. Such posting shall include the address and phone number of the Division of Environmental Health, Maine Center for Disease Control and Prevention, Department of Health and Human Services.

J. Fluoridation

If authorized under 22 MRSA §2651 and §2652, supplemental fluoride shall be added in accordance with 10-144A CMR 228, Rules Relating to Fluoridation of Public Water Systems.

K. Bottled Water

Public water supplies which bottle water for consumption shall comply with 10-144A CMR 235, Rules Relating to Bottled Water, Bulk Water and Water Vending Machines.

L. Sanitary Surveys

1. Community Water Systems shall have a Sanitary Survey conducted no less frequently than every three years.
2. Non-Community Water Systems shall have a Sanitary Survey conducted no less frequently than every five years.
3. Sanitary Surveys conducted shall address the following eight components as part of the on-site process:
  - a. Evaluation of the source and protective measures in place to insure acceptable quality and quantity;
  - b. Evaluation of the treatment processes in place to insure adequate water quality;
  - c. Evaluation of the distribution system;
  - d. Evaluation of the finished water storage facilities, including quantity;
  - e. Evaluation of pumps, pump facilities and controls;
  - f. Review of monitoring and reporting results and data verification process;
  - g. Evaluation of system management practices and operations; and
  - h. Review of Operator Certification compliance with State regulations.
4. During all sanitary surveys, the following parties shall be present:
  - a. Administrative Contact or other management personnel;
  - b. One or more licensed designated operators, for all systems required to have a licensed designated water operator; and
  - c. Other individuals as required by the Department.

5. If a system is required to prepare a disinfection profile under the requirements of the Enhanced Filtration and Disinfection rules pursuant to CMR 10-144 Chapter 231 section 7(N); 40 CFR 141.170 § Subpart (P), the profile shall be reviewed as part of the sanitary survey.
6. If a “significant deficiency” is identified in the Sanitary Survey Report, the system must report to the Department within forty-five (45) days of receipt of the report to explain how the system will address the deficiency and when the repairs will occur.
7. If a system is required to develop a “Disinfection Profile,” the system shall consult with the Department prior to making any significant change to its disinfection practice. The term “any significant change” may include, but not be limited to, any of the following:
  - a. changes to the point of disinfection addition;
  - b. changes to the disinfectant used in the treatment process;
  - c. changes to the disinfectant process; or
  - d. any other modification identified by the Department.

## SECTION 5: RECORD MAINTENANCE

Any owner or operator of a system shall retain on his or her premises, or at a convenient location near the premises, the records as indicated below. Such records shall be made available to the public for their review.

### A. Water Analyses

1. Records of bacteriological analyses made pursuant to these regulations shall be kept for not less than 5 years. Records of chemical analyses made pursuant to these regulations shall be kept for not less than 10 years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:
  - a. Name of public water system and public water system ID number (PWSID);
  - b. The date, place, and time of sampling and the name of person who collected the sample
  - c. Identification of the sample as to whether it was a routine distribution system sample, check sample, raw process water sample, or other special purpose sample;
  - d. Date and time that lab received sample;
  - e. Date and time of analysis;
  - f. Laboratory and person responsible for performing analysis;
  - g. The analytical technique/method used;
  - h. Minimum Detection Limits (MDL); and
  - i. The results of the analysis with, where appropriate, the units of measurement.
2. Certified laboratories must submit forms to the Department in a format approved by the Department, which includes hard-copy or electronic forms.
3. Records of lead analyses and of copper analyses made pursuant to these regulations, as pertinent to requirements of the Federal Lead and Copper Rule, shall be kept for not less than 12 years.

B. Violations

Records of action taken by the system to correct violations of drinking water regulations shall be kept for a period of not less than 3 years after the last action taken with respect to the particular violation involved and made available to the public upon demand.

C. Sanitary Surveys

Copies of any written reports, summaries, or communications relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, State, or Federal agency, shall be kept for a period of not less than 10 years after completion of the sanitary survey involved and made available to the public upon demand.

D. Variances and Exemptions

Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than 5 years following the expiration of said variance or exemption and made available to the public upon demand.

E. Operational Period

Each system shall maintain daily operational records, which shall be available for inspection and review by the Department and the public. Community systems using wells as a source of supply should maintain records on drawdown and static water level in each well.

## SECTION 6: REPORTING REQUIREMENTS

A person who owns or operates a system shall make reports to the Department as follows:

### A. Failure to Comply

All public water systems must report any failure to comply with the rules and regulations directly to the Department, including the failure to monitor or report water analyses, within the designated timeframes outlined in 40 CFR 141, Subpart Q, unless the Department performed the analysis and reported the results.

### B. Analysis Reporting

1. Unless a shorter period is specified, the results of tests, measurements, and analyses required by Sections 7, 8 and 9 of these regulations shall be reported by the tenth day of the month following the month in which the samples were analyzed.
2. All reports of laboratory analyses must be submitted to the Department by the certified laboratory contracted by the public water system to analyze the samples. Any portion of the analysis sub-contracted to another certified laboratory must be reported by the primary contracted laboratory. The primary contracted laboratory must submit the final report to the Department.
3. Certified laboratories must submit forms to the Department in a format approved by the Department, which includes hard-copy or electronic forms.

### C. Monthly Report to Department

1. Each community system serving municipalities and/or Districts shall file with the Department no later than the tenth day of each month, a monthly operational report. The reports shall be made on forms provided or approved by the Department and shall include, but not be limited to: records of daily test results, daily water production and usage, daily chemical usage, any change in normal treatment procedure, and other pertinent information.
2. All public water systems which are not included in Section (6)(C)(1) that add chemicals on a continuous basis shall submit monthly reports on forms provided by or approved by the Department or via electronic means as approved by the Department. These monthly reports shall include but not be limited to: records of daily test results, daily chemical usage, any change from the normal treatment procedure, and any other pertinent information. Based upon the complexity, size, and compliance history, the Department may reduce a public water system's daily monitoring requirements but in no case shall it be reduced to less than twice a week.

D. Change in Ownership

1. All current owners of public water systems must notify the Department of a change in ownership 60 days prior to the transfer.
2. New owners of community and non-transient, non-community public water systems must contact the Department within sixty (60) days of an ownership transfer for a review of the water system's technical, managerial, and financial capacity.

E. Security Reports

1. Public water systems must notify the Department and law enforcement officials immediately to report any act of potential or suspected tampering.

## SECTION 7: PRIMARY DRINKING WATER REGULATIONS (40 CFR – PART 141)

### A. General Provisions

#### 1. Applicability

Title 40 Code of Federal Regulations Section 141.1, published at 40 Federal Register (hereinafter referred to as "FR") 59570, December 24, 1975, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

#### 2. Definitions

Title 40 Code of Federal Regulations Section 141.2, published at 40 FR 59570, December 24, 1975, as amended at 41 FR 28403, July 9, 1976; 44 FR 68641, Nov. 29, 1979; 51 FR 11410, Apr. 2, 1986; 52 FR 20674, June 2, 1987; 52 FR 25712, July 8, 1987; 53 FR 37410, Sept. 26, 1988; 54 FR 27526, 27562, June 29, 1989; 56 FR 3578, Jan. 30, 1991; 56 FR 26547, June 7, 1991, 57 FR 31838, July 17, 1992, and 59 FR 34322, July 1, 1994, 61 FR 24368, May 14, 1996; 63 FR 23366, April 28, 1998; 63 FR 69463, 69515, December 16, 1998; 66 FR 7061, January 22, 2001; 67 FR 1835, January 14, 2002, is hereby incorporated herein by this reference, with the exceptions, additions or changes as set forth below. A copy of this regulation is attached to these rules.

"Act" means Chapter 601 of Title 22 of the Maine Revised Statutes Annotated, "Water for Human Consumption."

"Administrator" means the Commissioner of the Department of Human Services or the designated representative thereof.

"Person" means person, as defined in Section 2 of these rules.

"Public water system" means a public water system as defined in Section 2 of these rules.

"State" means the State of Maine.

#### 3. Coverage

Title 40 Code of Federal Regulations Section 141.3, published at 40 FR 59570, December 24, 1975, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

#### 4. Variances and exemptions

Title 40 Code of Federal Regulations Section 141.4, published at 54 FR 27562, June 29, 1989, as amended at 56 FR 1557, January 15, 1991; 63 FR 43846, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Siting requirements

Title 40 Code of Federal Regulations Section 141.5, published at 40 FR 59570, December 24, 1975, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Effective dates

Title 40 Code of Federal Regulations Section 141.6, published at 44 FR 68641, November 29, 1979, as amended at 45 FR 57342, August 27, 1980; 47 FR 10998, March 12, 1982; 51 FR 11410, April 2, 1986; 56 FR 30274, July 1, 1991; 57 FR 22178, May 27, 1992; 57 FR 31838, July 17, 1992, and 59 FR 34322, July 1, 1994; 61 FR 24368, May 14, 1996; 66 FR 7061, January 22, 2001; 66 FR 28350, May 22, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

B. Maximum Contaminant Levels

1. Maximum contaminant levels for inorganic chemicals

Title 40 Code of Federal Regulations Section 141.11, published at 40 FR 59570, December 24, 1975, as amended at 45 FR 57342, August 27, 1980; 47 FR 10998, March 12, 1982; 51 FR 11410, April 2, 1986; 56 FR 3578, January 30, 1991; 56 FR 26548, June 7, 1991; 56 FR 30274, July 1, 1991; 56 FR 32113, July 15, 1991; 60 FR 33932, June 29, 1995; 65 FR 26022, May 4, 2000; 66 FR 7061, January 22, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Maximum contaminant levels for total trihalomethanes (TTHM) and haloacetic acids (HAA5) (organic chemicals)

Title 40 Code of Federal Regulations Section 141.65, published at 63 FR 69465, December 16, 1998, as amended at 66 FR 3776, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Maximum contaminant levels for turbidity

Title 40 Code of Federal Regulations Section 141.13, published at 40 FR 59570, December 24, 1975, as amended at 54 FR 27527, June 29, 1988, effective December

31, 1990, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. *Deleted*

5. Maximum contaminant levels for uranium, radium-226, radium-228, and gross alpha particle radioactivity in community water systems

Title 40 Code of Federal Regulations Section 141.66, published at 41 FR 28404, July 9, 1976, as amended at 65 FR 76745, December 7, 2000, removed and effective December 8, 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Maximum contaminant levels for beta particle and photon radioactivity from man-made radionuclides in community water systems.

Title 40 Code of Federal Regulations Section 141.66, published at 41 FR 28404, July 9, 1976, as amended at 65 FR 76745, December 7, 2000, removed and effective December 8, 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

C. Monitoring and Analytical Requirements

1. Coliform Sampling and Analysis

Title 40 Code of Federal Regulations Section 141.21, published at 54 FR 27562, June 29, 1989, as amended at 54 FR 30001, July 17, 1989; 55 FR 25064, June 19, 1990, 56 FR 642, January 8, 1991; 57 FR 1852, January 15, 1992; 57 FR 24747, June 10, 1992; 59 FR 62466, December 5, 1994; 60 FR 34085, June 29, 1995; 64 FR 67461, December 1, 1999; 65 FR 26022, May 4, 2000; 67 FR 65246, October 23, 2002; 67 FR 65896, October 29, 2002; 69 FR 7160, February 13, 2004; 72 FR 11200, March 12, 2007 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Turbidity sampling and analytical requirements

Title 40 Code of Federal Regulations Section 141.22, published at 40 FR 59570, December 24, 1975, as amended at 45 FR 57344, August 27, 1980; 47 FR 8998, March 3, 1982; 47 FR 10998, March 12, 1982; 54 FR 27527, June 29, 1989; 59 FR 62466, December 5, 1994; 65 FR 26022, May 4, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Inorganic chemical sampling and analytical requirements

Title 40 Code of Federal Regulations Section 141.23, published at 56 FR 3579, January 30, 1991, as amended at 56 FR 30274, July 1, 1991, 57 FR 31838, July

17, 1992, 59 FR 34322, July 1, 1994; 59 FR 62466, December 5, 1994; 60 FR 33932 and 34085, June 29, 1995; 64 FR 67461, December 1, 1999; 65 FR 26022, May 4, 2000; 66 FR 7061, January 22, 2001; 67 FR 65246, October 23, 2002; 67 FR 65897, October 29, 2002; 67 FR 68911, November 13, 2002; 68 FR 14506, March 25, 2003; 72 FR 11200, March 12, 2007 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Organic chemicals sampling and analytical requirements

Title 40 Code of Federal Regulations Section 141.24, published at 40 FR 59570, December 24, 1975, as amended at 44 FR 68641, November 29, 1979; 45 FR 57345, August 27, 1980; 47 FR 10998, March 12, 1982; 52 FR 25712, July 8, 1987; 53 FR 5147, February 19, 1988; 53 FR 25110, July 1, 1988; 56 FR 3583, January 30, 1991; 56 FR 30277, July 1, 1991; 57 FR 22178, May 27, 1992; 57 FR 31841, July 17, 1992; 59 FR 34323, July 1, 1994; 59 FR 62468, December 5, 1994; 60 FR 34085, June 29, 1995; 64 FR 67464, December 1, 1999; 65 FR 26022, May 4, 2000; 66 FR 7063, January 22, 2001, § 141.24 was amended and effective March 23, 2001, 66 FR 16134, March 23, 2001, date delayed until May 22, 2001; 66 FR 28350, May 22, 2001, the effective date of (f)(22) delayed until January 22, 2004, is hereby incorporated herein by this reference. TTHM and HAA5: Title 40 Code of Federal Regulations, Section 141.30, published at 44 FR 68641, November 29, 1979, as amended at 45 FR 15545 and 15547, March 11, 1980; 58 FR 41345, August 3, 1993; 59 FR 62469, December 5, 1994 and 60 FR 34085, June 29, 1995; 63 FR 69464, December 16, 1998; 65 FR 26022, May 4, 2000; 66 FR 3776, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Analytical methods for radiochemistry

Title 40 Code of Federal Regulations Section 141.25, published at 41 FR 28404, July 9, 1976, as amended at 69 FR 38850, 38851, and 38855, June 29, 2004; 69 FR 52180, August 25, 2004; 72 FR 11200, March 12, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Monitoring frequency and compliance requirements for radionuclides in community water systems.

Title 40 Code of Federal Regulations Section 141.26, published at 65 FR 76745, December 7, 2000, as published at 69 FR 38855, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Alternate analytical techniques

Title 40 Code of Federal Regulations Section 141.27, published at 45 FR 57345, August 27, 1980, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. Certified laboratories

Title 40 Code of Federal Regulations Section 141.28, published at 45 FR 57345, August 27, 1980; 47 FR 10999, March 12, 1982, as amended at 59 FR 34323, July 1, 1994; 64 FR 67465, December 1, 1999, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

9. Monitoring of consecutive public water systems

Title 40 Code of Federal Regulations Section 141.29, published at 40 FR 59570, December 24, 1975 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

10. Monitoring and analytical requirements for methyl tertiary-butyl ether for community and non-transient non-community water systems

- a. The sampling frequency for methyl tertiary-butyl ether for community water systems and non-transient non-community water systems shall be the same as outlined at 10-144 CMR 231 Section 7(C)(4) above and 40 C.F.R. 141.24 for Volatile Organic Contaminants (VOCs). MTBE monitoring will begin with the next compliance period for VOC's in accordance with the system's VOC testing schedule.
- b. The analytical method utilized to test for methyl tertiary-butyl ether shall be EPA method 524.2. Only samples analyzed utilizing testing method 524.2 shall be accepted by the Department for determining compliance with 10-144 CMR 231 Section 7(G)(5).

D. Reporting, Public Notification and Record Keeping

1. Reporting requirements

- a. Title 40 Code of Federal Regulations Section 141.31, published at 40 FR 59570, December 24, 1975, as amended at 45 FR 57345, August 27, 1980; 65 FR 26022, May 4, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.
- b. The supplier of water shall submit results of tests, measurements, or analyses to the Department for methyl tertiary-butyl ether in accordance with 10-144 CMR 231 Section 6(B) and 10-144 CMR 231 Section 7-D(1)(a) above. The reporting requirements shall be the same as that set for Volatile Organic Contaminants.

2. Reporting MTBE

- a. The owner or operator of a public water system shall complete public notification for any failure to monitor or exceedance of the MCL for methyl tertiary-butyl ether. Public notification shall be completed with the same form, manner, and frequency as required by the Public Notification Rule for Volatile Organic Contaminants at 40 C.F.R. 141, Subpart Q. The mandatory health effect language as specified at 10-144 CMR 231 Section 7-D (2)(b) for methyl tertiary-butyl ether is to be placed in the public notification for any exceedance of the methyl tertiary-butyl ether MCL.
- b. Mandatory health effect language for methyl tertiary-butyl ether:

The State of Maine has set an enforceable drinking water standard (MCL) for methyl tertiary-butyl ether known as "MTBE." MTBE generally contaminates drinking water from leaking underground fuel tanks and accidental spills. This chemical has been shown to have adverse effects on laboratory animals after long term exposure to high levels. Chemicals which cause adverse effects in laboratory animals may also cause adverse effects in humans who are exposed at lower levels over long periods of time. The Maine Drinking Water Program has set an enforceable drinking water standard for MTBE of 35 parts per billion to reduce the risk of adverse effects which have been observed in animals. Drinking water which meets this standard is associated with little to no risk and should be considered safe for human consumption.

3. Record maintenance

- a. Title 40 Code of Federal Regulations Section 141.33, published at 40 FR 59570, December 24, 1975 as amended at 65 FR 26022, May 4, 2000; 71 FR 478, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.
- b. Any owner or operator of a public water system shall retain on its premises, or a convenient location near its premises, the records of analyses for methyl tertiary-butyl ether in the same form, manner, and frequency as that required for the Volatile Organic Contaminants at 40 C.F.R. 141.33 and as incorporated by reference in these rules at 10-144 CMR 231 Section 7(D)(3)(a) above.

4. *Reserved*

5. Reporting and public notification for certain unregulated contaminants

Title 40 Code of Federal Regulations Section 141.35, published at 52 FR 25714, July 8, 1987 and 53 FR 25110, July 1, 1988; 64 FR 50611, September 17, 1999 as amended at 66 FR 2300, January 11, 2001; 66 FR 27215, May 16, 2001; 67 FR 11046, March 12, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

E. Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use

1. Special monitoring for inorganic and organic chemicals

Title 40 Code of Federal Regulations Section 141.40, published at 52 FR 25715, July 8, 1987; 53 FR 25110, July 1, 1988, as amended at 56 FR 3592, January 30, 1991; 57 FR 31845, July 17, 1992; 59 FR 34323, July 1, 1994 and 59 FR 62469, December 5, 1994, 64 FR 1498, January 8, 1999; 65 FR 11382, March 2, 2000; 66 FR 2302, January 11, 2001; 66 FR 27215, May 16, 2001; 66 FR 46225, September 4, 2002; 67 FR 65900, October 29, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Special monitoring for sodium

Title 40 Code of Federal Regulations Section 141.41, published at 45 FR 57345, August 27, 1980, as amended at 59 FR 62470, December 5, 1994, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Special monitoring for corrosivity characteristics

Title 40 Code of Federal Regulations Section 141.42, published at 45 FR 57346, August 27, 1980; 47 FR 10999, March 12, 1982, as amended at 59 FR 62470, December 5, 1994, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Prohibition on use of lead pipes, solder and flux

Title 40 Code of Federal Regulations Section 141.43, published at 52 FR 20674, June 2, 1987 as amended at 65 FR 2003, January 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

F. Maximum Contaminant Level Goals

1. Maximum contaminant level goals for organic contaminants

Title 40 Code of Federal Regulations Section 141.50, published at 50 FR 46901, November 13, 1985, as amended at 52 FR 20674, June 2, 1987; 52 FR 25716, July 8, 1987; 56 FR 3592, January 30, 1991; 56 FR 30280, July 1, 1991, and 57

FR 31846, July 17, 1992, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Maximum contaminant level goals for inorganic contaminants

Title 40 Code of Federal Regulations Section 141.51, published at 50 FR 47155, November 14, 1985 as amended at 52 FR 20674, June 2, 1987; 56 FR 3593, January 30, 1991, 56 FR 26548, June 7, 1991, 56 FR 30280, July 1, 1991; 57 FR 31846, July 17, 1992; 60 FR 33932, June 29, 1995; 66 FR 7063, January 22, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Maximum contaminant level goals for microbiological contaminants

Title 40 Code of Federal Regulations Section 141.52, published at 54 FR 27527 and 27566, June 29, 1989 and 55 FR 25064, June 19, 1990; 63 FR 69515, December 16, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Maximum contaminant level goals for disinfection byproducts

Title 40 Code of Federal Regulations Section 141.53, published at 63 FR 69465, December 16, 1998 as amended at 65 FR 34405, May 30, 2000, 71 FR 478, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Maximum residual disinfection level goals for disinfectants

Title 40 Code of Federal Regulations Section 141.54, published at 63 FR 69465, December 16, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Maximum contaminant level goals for radionuclides

Title 40 Code of Federal Regulations Section 141.55, published at 65 FR 76748, December 7, 2000, § 141.55 was added and effective December 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

G. National Revised Primary Drinking Water Regulations: Maximum Contaminant Levels

1. Effective dates

Title 40 Code of Federal Regulations Section 141.60, published at 56 FR 3593, January 30, 1991, as amended at 57 FR 31846, July 17, 1992, and 59 FR 34324,

July 1, 1994; 66 FR 7063, January 22, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Maximum contaminant levels for organic contaminants

Title 40 Code of Federal Regulations Section 141.61, published at 56 FR 3593, January 30, 1991, as amended at 56 FR 30280, July 1, 1991; 57 FR 31846, July 17, 1992, 59 FR 34324, July 1, 1994; 60 FR 33932, June 29, 1995, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Maximum contaminant levels for inorganic contaminants

Title 40 Code of Federal Regulations Section 141.62, published at 56 FR 3594, January 30, 1991, as amended at 56 FR 30280, July 1, 1991; 57 FR 31847, July 17, 1992; 59 FR 34325, July 1, 1994, and 60 FR 33932, June 29, 1995 as amended at 65 FR 26022, May 4, 2000; 66 FR 7063, January 22, 2001, 68 FR 14506, March 25, 2003; 69 FR 38855, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Maximum contaminant levels (MCLs) for microbiological contaminants

Title 40 Code of Federal Regulations Section 141.63, published at 54 FR 27566, June 29, 1989; and 55 FR 25064, June 19, 1990; as amended at FR 26022, May 4, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Maximum contaminant level for methyl tertiary-butyl ether (MTBE) in community and non-transient non-community water systems

- a. The maximum contaminant level for methyl tertiary-butyl ether is applicable to both community water systems and non-transient non-community water systems.
- b. The maximum contaminant level for methyl tertiary-butyl ether is 35 parts per billion.
- c. The best technology, treatment technique or other means available for achieving compliance with the maximum contaminant level for methyl tertiary-butyl ether shall be either: the Best Available Technologies (BATs) established by the United States Environmental Protection Agency or in the interim, technologies approved by the Department.

6. Maximum contaminant levels for disinfection byproducts

Title 40 Code of Federal Regulations Section 141.64, published at 63 FR 69465, December 16, 1998, as amended at 66 FR 3776, January 16, 2001; 71 FR 478, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Maximum residual disinfectant levels

Title 40 Code of Federal Regulations Section 141.65, published at 63 FR 69465, December, 16, 1998, as amended at 66 FR 3776, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. Maximum contaminant levels for radionuclides

Title 40 Code of Federal Regulations Section 141.66, published at 65 FR 76748, December 7, 2000, as amended 66 FR 34374, 34376, June 28, 2001, effective December 8, 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

H. Filtration and Disinfection

1. General requirements

Title 40 Code of Federal Regulations Section 141.70, published at 54 FR 27527, June 29, 1989, as amended at 63 FR 69516, December 16, 1998; 67 FR 1836, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Criteria for avoiding filtration

Title 40 Code of Federal Regulations Section 141.71, published at 54 FR 27527, June 29, 1989, as amended at 63 FR 69516, December 16, 1998, 66 FR 3776, January 16, 2001; 69 FR 38855, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Disinfection

Title 40 Code of Federal Regulations Section 141.72, published at 54 FR 27527, June 29, 1989, as amended at 69 FR 38855, June 29, 2004 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Filtration

Title 40 Code of Federal Regulations Section 141.73, Published at 54 FR 27527, June 29, 1989, as amended at 63 FR 69516, December 16, 1998; 66 FR 3776, January 16, 2001; 67 FR 1836, January 14, 2002; 69 FR 38855, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Analytical and monitoring requirements

Title 40 Code of Federal Regulations Section 141.74, Published at 54 FR 27527, June 29, 1989, as amended at 59 FR 62470, December 5, 1994 and 60 FR 34086, June 29, 1995; 64 FR 67465, December 1, 1999; 67 FR 65252, October 23, 2002; 67 FR 65901, October 29, 2002; 69 FR 38856, June 29, 2004 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Reporting and record keeping requirements

Title 40 Code of Federal Regulations Section 141.75, Published at 54 FR 27527, June 29, 1989 as amended at 65 Fr 26022, May 4, 2000; 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Recycle provisions

Title 40 Code of Federal Regulations Section 141.76, published at 66 FR 31103, June 8, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

I. Control of Lead and Copper

1. General requirements

Title 40 Code of Federal Regulations Section 141.80, published at 56 FR 26548, June 7, 1991 and 57 FR 28788, June 29, 1992, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Applicability of corrosion control treatment steps to small, medium-size and large water systems

Title 40 Code of Federal Regulations Section 141.81, published at 56 FR 26548, June 7, 1991, as amended at 59 FR 33862, June 30, 1994; 65 FR 2004, June 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Description of corrosion control treatment requirements

Title 40 Code of Federal Regulations Section 141.82, published at 56 FR 26548, June 7, 1991 as amended at 65 FR 2004, June 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Source water treatment requirements

Title 40 Code of Federal Regulations Section 141.83, published at 56 FR 26548, June 7, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Lead service line replacement requirements

Title 40 Code of Federal Regulations Section 141.84, published at 56 FR 26548, June 7, 1991 and 57 FR 28788, June 29, 1992 as amended at 65 FR 2005, June 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Public education and supplemental monitoring requirements

Title 40 Code of Federal Regulations Section 141.85, published at 56 FR 26548, June 7, 1991 and 57 FR 28788, June 29, 1992; 65 FR 2005, June 12, 2000; 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Monitoring requirements for lead and copper in tap water

Title 40 Code of Federal Regulations Section 141.86, published at 56 FR 26548, June 7, 1991; 56 FR 32113, July 15, 1991 and 57 FR 28788, June 29, 1992 as amended at 65 FR 2007, June 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. Monitoring requirements for water quality parameters

Title 40 Code of Federal Regulations Section 141.87, published at 56 FR 26548, June 7, 1991; 57 FR 28788, June 29, 1992, as amended at 59 FR 33862, June 30, 1994; 65 FR 2010, January 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

9. Monitoring requirements for lead and copper in source water

Title 40 Code of Federal Regulations Section 141.88, published at 56 FR 26548, June 7, 1991; 57 FR 28788 and 28789, June 29, 1992 as amended at 65 FR 2012,

January 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

10. Analytical methods

Title 40 Code of Federal Regulations Section 141.89, published at 56 FR 26548, June 7, 1991, as amended at 57 FR 28789, June 29, 1992; 57 FR 31847, July 17, 1992; 59 FR 33863, June 30, 1994 and 59 FR 62470, December 5, 1994; 64 FR 67466, December 1, 1999; 65 FR 2012, January 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

11. Reporting Requirements

Title 40 Code of Federal Regulations Section 141.90, published at 56 FR 26548, June 7, 1991; 57 FR 28789, June 29, 1992, as amended at 59 FR 33864, June 30, 1994; 65 FR 2012, January 12, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

12. Record keeping requirements

Title 40 Code of Federal Regulations Section 141.91, published at 56 FR 26548, June 7, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

J. Use of Non-Centralized Treatment Devices

1. Criteria and procedures for public water systems using point-of-entry devices

Title 40 Code of Federal Regulations Section 141.100, published at 52 FR 25716, July 8, 1987 and 53 FR 25111, July 1, 1988, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Use of bottled water

Title 40 Code of Federal Regulations Section 141.101, published at 52 FR 25716, July 8, 1987; 63 FR 31934, June 11, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

K. Treatment Techniques

1. General requirements

Title 40 Code of Federal Regulations Section 141.110, published at 56 FR 3594, January 30, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Treatment techniques for acrylamide and epichlorohydrin

Title 40 Code of Federal Regulations Section 141.111, published at 56 FR 3594, January 30, 1991 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

L. Disinfectant Residuals, Disinfectant Byproducts and Disinfection Byproducts Precursors

1. General requirements

Title 40 Code of Federal Regulations Section 141.130, published at 63 FR 69466, December 16, 1998, as amended at 66 FR 3776, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Analytical requirements

Title 40 Code of Federal Regulations Section 141.131, published at 63 FR 69466, December 16, 1998, as amended at 66 FR 3776, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Monitoring requirements

Title 40 Code of Federal Regulations Section 141.132, published at 63 FR 69466, December 16, 1998, as amended at 66 FR 3776, January 16, 2001 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Compliance requirements

Title 40 Code of Federal Regulations Section 141.133, published at 63 FR 69466, December 16, 1998 as amended at 65 FR 26022, May 4, 2000; 65 FR 40521, June 30, 2000; 66 FR 3777, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Reporting and recordkeeping requirements

Title 40 Code of Federal Regulations Section 141.134, published at 63 FR 69466, December 16, 1998, as amended at 66 FR 3778, January 16, 2001; 66 FR 9903, February 12, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Treatment technique for control of disinfection byproducts (DBP) precursors

Title 40 Code of Federal Regulations Section 141.135, published at 63 FR 69466, December 16, 1998 as amended at 66 FR 3779, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

#### Subparts M-N [Reserved]

#### O. Consumer Confidence Reports

1. This rule requires community water systems to deliver annual consumer confidence reports to the persons served by their water system, pursuant to 22 M.R.S.A. § 2615-A.

Title 40 Code of Federal Regulations Parts 141 and 142, Subpart O, Appendix A, published at 63 FR 44512, 44530, August 19, 1998, as amended at 68 FR 14502, 14506, March 25, 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Purpose and applicability of this subpart

Title 40 Code of Federal Regulations Section 141.151, published at 63 FR 44526, August 19, 1998; 71 FR 483, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Effective dates

Title 40 Code of Federal Regulations Section 141.152, published at 63 FR 44526, August 19, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Content of the reports

Title 40 Code of Federal Regulations Section 141.153, published at 63 FR 44526, August 19, 1998, as amended at 63 FR 69516, December 16, 1998; 64 FR 34733, June 29, 1999; 65 FR 26022, May 4, 2000; 67 FR 1836, January 14, 2002; 71 FR 483, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Required additional health information

Title 40 Code of Federal Regulations Section 141.154, published at 63 FR 44526, August 19, 1998, as amended at 63 FR 69516, December 16, 1998; 64 FR 34733, June 29, 1999; 65 FR 26023, May 4, 2000; 66 FR 7064, January 22, 2001; 68 FR 14506, March 25, 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Report delivery and recordkeeping

Title 40 Code of Federal Regulations Section 141.155, published at 63 FR 44526, August 19, 1998, as amended at 63 FR 69516, December 16, 1998; 64 FR 34733, June 29, 1999; 65 FR 26023, May 4, 2000, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

P. Enhanced Filtration and Disinfection – Systems Serving More Than 10,000 People

1. General requirements

Title 40 Code of Federal Regulations Section 141.170, published at 63 FR 69516, December 16, 1998 as amended at 66 FR 3779, January 16, 2001; 67 FR 1836, January 14, 2002; 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Criteria for avoiding filtration

Title 40 Code of Federal Regulations Section 141.171, published at 63 FR 69516, December 16, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Disinfection profiling and benchmarking

Title 40 Code of Federal Regulations Section 141.172, published at 63 FR 69516, December 16, 1998 as amended at 65 FR 20313, April 14, 2000, as amended at 66 FR 3779, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Filtration

Title 40 Code of Federal Regulations Section 141.173, published at 63 FR 69516, December 16, 1998, as amended at 65 FR 20313, Apr. 14, 2000, as amended at 66 FR 3779, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Filtration sampling requirements

Title 40 Code of Federal Regulations Section 141.174, published at 63 FR 69516, December 16, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Reporting and recording keeping requirements

Title 40 Code of Federal Regulations Section 141.175, published at 63 FR 69516, December 16, 1998, as amended at 66 FR 3779, January 16, 2001, is hereby

incorporated herein by this reference. A copy of this regulation is attached to these rules.

Q. Public Notification of Drinking Water Violations

1. General public notification requirements

Title 40 Code of Federal Regulations Section 141.201, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules herein.

2. *Tier 1 Public Notice* – Form, manner, and frequency of notice

Title 40 Code of Federal Regulations, Part 141.202, published at 65 FR 26035, May 4, 2000, as amended at 67 FR 1836, January 14, 2002, is hereby incorporated by this reference. A copy of this regulation is attached to these rules herein.

3. *Tier 2 Public Notice* – Form, manner, and frequency of notice

Title 40 Code of Federal Regulations, Part 141.203, published at 65 FR 26035, May 4, 2000, as amended at 67 FR 1836, January 14, 2002, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.

4. *Tier 3 Public Notice* – Form, manner, and frequency of notice

Title 40 Code of Federal Regulations, Part 141.204, published at 65 FR 26035, May 4, 2000, as amended at 65 FR 38629, June 21, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.

5. Content of the Public Notice

Title 40 Code of Federal Regulations, Part 141.205, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.

6. Notice to new billing units or new customers

Title 40 Code of Federal Regulations, Part 141.206, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.

7. Special Notice of the availability of unregulated contaminant monitoring results

Title 40 Code of Federal Regulations, Part 141.207, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.

8. Special notice for exceedance of the SMCL for fluoride  
  
Title 40 Code of Federal Regulations, Part 141.208, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.
9. Special notice for nitrate exceedances above MCL by non-community water systems (NCWS), where granted permission by the primacy agency under § 141.11 (d)  
  
Title 40 Code of Federal Regulations, Part 141.209, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.
10. Notice by primacy agency on behalf of the public water system.  
  
Title 40 Code of Federal Regulations, Part 141.210, published at 65 FR 26035, May 4, 2000, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.
11. Special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification or mean *Cryptosporidium* level  
  
Title 40 Code of Federal Regulations, Part 141.211, published at 71 FR 768, January 5, 2006, is hereby incorporated by this reference. A copy of this regulation is attached to these rules.

#### Subpart R [Reserved]

#### S. Groundwater Rule

1. General requirements and applicability:  
  
Title 40 Code of Federal Regulations Section 141.400, published at FR, January 8, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.
2. Sanitary surveys for ground water systems:  
  
Title 40 Code of Federal Regulations Section 141.401, published at FR, January 8, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.
3. Ground water source microbial monitoring and analytical methods:  
  
Title 40 Code of Federal Regulations Section 141.402, published at FR,

January 8, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Treatment technique requirements for ground water systems:

Title 40 Code of Federal Regulations Section 141.403, published at FR, January 8, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Treatment technique violations for ground water systems:

Title 40 Code of Federal Regulations Section 141.404, published at FR, January 8, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Reporting and recordkeeping for ground water systems:

Title 40 Code of Federal Regulations Section 141.405, published at FR, January 8, 2007, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

T. Enhanced Filtration and Disinfection – Systems Serving Fewer Than 10,000 People

1. General requirements

Title 40 Code of Federal Regulations Section 141.500, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Who is subject to the requirements of subpart T?

Title 40 Code of Federal Regulations Section 141.501, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. When must my system comply with these requirements?

Title 40 Code of Federal Regulations Section 141.502, published at 67 FR 1839, January 14, 2002; 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. What does subpart T require?

Title 40 Code of Federal Regulations Section 141.503, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Is my system subject to the new finished water reservoir requirements?

Title 40 Code of Federal Regulations Section 141.510, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. What is required of new finished water reservoirs?

Title 40 Code of Federal Regulations Section 141.511, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Is my system subject to the updated watershed control requirements?

Title 40 Code of Federal Regulations Section 141.520, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. What update watershed control requirements must my unfiltered system implement to continue to avoid filtration?

Title 40 Code of Federal Regulations Section 141.521, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

9. How does the State determine whether my system's watershed control requirements are adequate?

Title 40 Code of Federal Regulations Section 141.522, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

10. What is a disinfection profile and who must develop one?

Title 40 Code of Federal Regulations Section 141.530, published at 67 FR 1839, January 14, 2002 as amended at 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

11. What criteria must a State use to determine that a profile is unnecessary?

Title 40 Code of Federal Regulations Section 141.531, published at 67 FR 1839, January 14, 2002 as amended at 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

12. How does my system develop a disinfection profile and when must it begin?

Title 40 Code of Federal Regulations Section 141.532, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

13. What data must my system collect to calculate a disinfection profile?

Title 40 Code of Federal Regulations Section 141.533, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

14. How does my system use this data to calculate an inactivation ratio?

Title 40 Code of Federal Regulations Section 141.534, published at 67 FR 1839, January 14, 2002, as amended at 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

15. What if my system uses chloramines, ozone, or chlorine dioxide for primary disinfection?

Title 40 Code of Federal Regulations Section 141.535, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

16. My system has developed an inactivation ratio; what must we do now?

Title 40 Code of Federal Regulations Section 141.536, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

17. Who has to develop a disinfection benchmark?

Title 40 Code of Federal Regulations Section 141.540, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

18. What are significant changes to disinfection practice?

Title 40 Code of Federal Regulations Section 141.541, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

19. What must my system do if we are considering a significant change to disinfection practices?

Title 40 Code of Federal Regulations Section 141.542, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

20. How is the disinfection benchmark calculated?

Title 40 Code of Federal Regulations Section 141.543, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

21. What if my system uses chloramines, ozone, or chlorine dioxide for primary disinfection?

Title 40 Code of Federal Regulations Section 141.544, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

22. Is my system required to meet subpart T combined filter effluent turbidity limits?

Title 40 Code of Federal Regulations Section 141.550, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

23. What strengthened combined filter effluent turbidity limits must my system meet?

Title 40 Code of Federal Regulations Section 141.551, published at 67 FR 1839, January 14, 2002, as amended at 69 FR 38856, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

24. My system consists of “alternative filtration” and is required to conduct a demonstration - what is required of my system and how does the State establish my turbidity limits?

Title 40 Code of Federal Regulations Section 141.552, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

25. My system practices lime softening – is there any special provision regarding my combined filter effluent?

Title 40 Code of Federal Regulations Section 141.553, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

26. Is my system subject to individual filter turbidity requirements?

Title 40 Code of Federal Regulations Section 141.560, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

27. What happens if my system's turbidity monitoring equipment fails?

Title 40 Code of Federal Regulations Section 141.561, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

28. My system only has 2 or fewer filters – is there any special provision regarding individual filter turbidity monitoring?

Title 40 Code of Federal Regulations Section 141.562, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

29. What follow-up action is my system required to take based on continuous turbidity monitoring?

Title 40 Code of Federal Regulations Section 141.563, published at 67 FR 1839, January 14, 2002, as amended at 69 FR 38856, June 29, 2004 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

30. My system practices lime softening – is there any special provision regarding my individual filter turbidity monitoring?

Title 40 Code of Federal Regulations Section 141.564, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

31. What does subpart T require that systems report to the State?

Title 40 Code of Federal Regulations Section 141.570, published at 67 FR 1839, January 14, 2002, as amended at 69 FR 38857, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

32. What records does subpart T require my system to keep?

Title 40 Code of Federal Regulations Section 141.571, published at 67 FR 1839, January 14, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

#### U. Initial Distribution System Evaluations

##### 1. General Requirements:

Title 40 Code of Federal Regulations Section 141.600, published at 71 FR 483, January 4, 2006, is hereby incorporated herein by the reference. A copy of this regulation is attached to these rules.

##### 2. Standard Monitoring:

Title 40 Code of Federal Regulations Section 141.601, published at 71 FR 483, January 4, 2006, is hereby incorporated herein by the reference. A copy of this regulation is attached to these rules.

##### 3. System Specific Studies:

Title 40 Code of Federal Regulations Section 141.602, published at 71 FR 483, January 4, 2006, is hereby incorporated herein by the reference. A copy of this regulation is attached to these rules.

##### 4. 40/30 Certification:

Title 40 Code of Federal Regulations Section 141.603, published at 71 FR 483, January 4, 2006, is hereby incorporated herein by the reference. A copy of this regulation is attached to these rules.

##### 5. Very Small System Waivers:

Title 40 Code of Federal Regulations Section 141.604, published at 71 FR 483, January 4, 2006, is hereby incorporated herein by the reference. A copy of this regulation is attached to these rules.

##### 6. Subpart V Compliance Monitoring Location Recommendations:

Title 40 Code of Federal Regulations Section 141.605, published at 71 FR 483, January 4, 2006, is hereby incorporated herein by the reference. A copy of this regulation is attached to these rules.

#### V. Stage 2 Disinfection Byproducts Requirements:

##### 1. General Requirements:

Title 40 Code of Federal Regulations Section 141.620, published at 71 FR 488, January 4, 2006, as amended at 71 FR 4645, January 27, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Routine Monitoring:

Title 40 Code of Federal Regulations Section 141.621, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Subpart V Monitoring Plan:

Title 40 Code of Federal Regulations Section 141.622, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Reduced Monitoring:

Title 40 Code of Federal Regulations Section 141.623, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Additional Requirements for Consecutive Systems:

Title 40 Code of Federal Regulations Section 141.624, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Conditions Requiring Increased Monitoring:

Title 40 Code of Federal Regulations Section 141.625, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Operational Evaluation Levels:

Title 40 Code of Federal Regulations Section 141.626, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. Requirements for Remaining on Reduced TTHM and HAA5 Monitoring Based on Subpart L Results:

Title 40 Code of Federal Regulations Section 141.627, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

9. Requirements for Remaining on Increased TTHM and HAA5 Monitoring Based 2on Subpart L Results:

Title 40 Code of Federal Regulations Section 141.628, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

10. Reporting and Recordkeeping Requirements:

Title 40 Code of Federal Regulations Section 141.629, published at 71 FR 488, January 4, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

W. Enhanced Treatment for Cryptosporidium:

1. General Requirements:

Title 40 Code of Federal Regulations Section 141.700, published at 71 FR 769, January 5, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Source water monitoring requirements:

Title 40 Code of Federal Regulations Section 141.701 through 141.707, published at 71 FR 769, January 5, 2006, is hereby incorporated herein by this reference. A copy of these regulations are attached to these rules.

3. Disinfection Profiling and Benchmarking Requirements:

Title 40 Code of Federal Regulations Section 141.708 and 141.709, published at 71 FR 769, January 5, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules..

4. Treatment Technique Requirements:

Title 40 Code of Federal Regulations Section 141.710 through 141.714, published at 71 FR 769, January 5, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Requirements for Microbial Toolbox Components:

Title 40 Code of Federal Regulations Section 141.715 through 141.720, published at 71 FR 769, January 5, 2006 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Reporting and Recordkeeping Requirements:

Title 40 Code of Federal Regulations Section 141.721 and 141.722, published at 71 FR 769, January 5, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Requirements for Sanitary Surveys Performed by EPA:

Title 40 Code of Federal Regulations Section 141.723, published at 71 FR 769, January 5, 2006, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

**SECTION 8: PRIMARY DRINKING WATER REGULATIONS – IMPLEMENTATION  
(40 CFR – PART 142)**

A. General Provisions

1. Applicability

Title 40 Code of Federal Regulations Section 142.1, published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Definitions

Title 40 Code of Federal Regulations Section 142.2, published at 41 FR 2918, January 20, 1976, as amended at 53 FR 37410, September 26, 1988; 54 FR 52137, December 20, 1989 and 59 FR 64344, December 14, 1994; 63 FR 23367, April 28, 1998, is hereby incorporated herein by this reference, with the exceptions, additions or changes as set forth below. A copy of this regulation is attached to these rules.

"Act" means Chapter 601 of Title 22 of the Maine Revised Statutes Annotated, "Water for Human Consumption".

"Administrator" means the Commissioner of the Department of Health and Human Services or the designated representative thereof.

"Agency" means the Department of Health and Human Services.

"Indian Tribe" refers to the Department of Health and Human Services.

"Public water system" means a public water system as defined in Section 2 of these rules.

"State" means the State of Maine.

3. Scope

Title 40 Code of Federal Regulations Section 142.3, published at 41 FR 2918, January 20, 1976, as amended at 53 FR 37410, September 26, 1988 and 59 FR 64344, December 14, 1994; 67 FR 70858, November 27, 2002, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. State and local authority

Title 40 Code of Federal Regulations Section 142.4, published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

B. Primary Enforcement Responsibility

1. Requirements for a determination of primary enforcement responsibility

Title 40 Code of Federal Regulations Section 142.10, published at 41 FR 2918, January 20, 1976, as amended at 43 FR 5373, February 8, 1978; 52 FR 20675, June 2, 1987; 52 FR 41550, October 28, 1987; 53 FR 37410, September 26, 1988; 54 FR 15188, April 17, 1989 and 54 FR 52138, December 20, 1989; 63 FR 23367, April 28, 1998; 63 FR 43846, August 14, 1998; 63 FR 44535, August 19, 1998; 65 FR 26048, May 4, 2000; 70 FR 59888, October 13, 2005, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Initial determination of primary enforcement responsibility

Title 40 Code of Federal Regulations Section 142.11 published at 41 FR 2918, January 20, 1976, as amended at 54 FR 52138, December 20, 1989 and 60 FR 33661, June 28, 1995; 63 FR 23367, April 28, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Revision of State programs

Title 40 Code of Federal Regulations Section 142.12 published at 54 FR 52138, December 20, 1989 as amended at 63 FR 23367, April 28, 1998; 66 FR 3780, January 16, 2001, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Public hearing

Title 40 Code of Federal Regulations Section 142.13 published at 41 FR 2918, January 20, 1976, as amended at 54 FR 52140, December 20, 1989 and 60 FR 33661, June 28, 1995, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Records kept by States

Title 40 Code of Federal Regulations Section 142.14 published at 41 FR 2918, January 20, 1976, as amended at 54 FR 27537, June 29, 1989; 55 FR 25065, June 19, 1990; 56 FR 3595, January 30, 1991 and 56 FR 26562, June 7, 1991; 63 FR 69475, 69519, December 16, 1998; 65 FR 2014, June 12, 2000; 65 FR 26048, May 4, 2000; 66 FR 31105, June 8, 2001; 67 FR 1843, January 14, 2002; 69 FR 38857, June 29, 2004; 71 FR 492, January 4, 2006; 71 FR 785, January 5, 2006, is

hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Reports by States

Title 40 Code of Federal Regulations Section 142.15 published at 41 FR 2918, January 20, 1976, as amended at 43 FR 5373, February 8, 1978; 54 FR 27539, June 29, 1989; 55 FR 52140, December 20, 1989; 55 FR 25065, June 19, 1990; 56 FR 3595, January 30, 1991 and 56 FR 26562, June 7, 1991; 63 FR 69520, December 16, 1998; 64 FR 50620, September 17, 1999; 65 FR 2014, January 12, 2000; 65 FR 20313, April 14, 2000; 65 FR 26048, May 4, 2000; 66 FR 3780, January 16, 2001; 71 FR 786, January 5, 2006; 71 FR 65659, November 8, 2006 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Special primacy requirements

Title 40 Code of Federal Regulations Section 142.16 published at 54 FR 15188, April 17, 1989, as amended at 54 FR 27539, June 29, 1989; 55 FR 25065, June 19, 1990; 56 FR 3595, January 30, 1991; 56 FR 26563, June 7, 1991; 57 FR 31847, July 17, 1992 and 59 FR 33864, June 30, 1994; 63 FR 44535, August 19, 1998; 63 FR 69475, 69520, December 16, 1998; 64 FR 34733, June 29, 1999; 64 FR 50620, September 17, 1999; 65 FR 76751, December 7, 2000, § 141.16 December 8, 2003; 65 FR 2015, January 12, 2000; 65 FR 26048, 26049, May 4, 2000; 66 FR 7066, January 22, 2001, § 142.16 January 22, 2004; 71 FR 65659, November 8, 2006 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. Review of State programs and procedures for withdrawal of approved primacy programs

Title 40 Code of Federal Regulations Section 142.17 published at 54 FR 52140, December 20, 1989 as amended at 60 FR 33661, June 28, 1995, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

9. EPA review of State monitoring determinations

Title 40 Code of Federal Regulations Section 142.18 published at 56 FR 3595, January 30, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

10. EPA review of State implementation of national primary drinking water regulations for lead and copper

Title 40 Code of Federal Regulations Section 142.19 published at 56 FR 26563, June 7, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

C. Review of State-Issued Variances and Exemptions

1. State-issued variances and exemptions

Title 40 Code of Federal Regulations Section 142.20 published at 41 FR 2918, January 20, 1976; 63 FR 43847, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. State consideration of a variance or exemption request

Title 40 Code of Federal Regulations Section 142.21 published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Review of State variances, exemptions and schedules.

Title 40 Code of Federal Regulations Section 142.22 published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Notice to State

Title 40 Code of Federal Regulations Section 142.23 published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Administrator's rescission

Title 40 Code of Federal Regulations Section 142.24 published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

D. Federal Enforcement

1. Failure by State to assure enforcement

Title 40 Code of Federal Regulations Section 142.30 published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. *Reserved*

3. Petition for public hearing

Title 40 Code of Federal Regulations Section 142.32 published at 41 FR 2918, January 20, 1976 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Public hearing

Title 40 Code of Federal Regulations Section 142.33 published at 41 FR 2918, January 20, 1976 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Entry and inspection of public water systems

Title 40 Code of Federal Regulations Section 142.34 published at 41 FR 2918, January 20, 1976 is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

E. Variances Issued By the Administrator Under Section 1415 (a) of the Act

1. Requirements for a variance

Title 40 Code of Federal Regulations Section 142.40, published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Variance Request

Title 40 Code of Federal Regulations Section 142.41, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987; 63 FR 43847, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Consideration of a variance request

Title 40 Code of Federal Regulations Section 142.42, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987; 63 FR 43847, August, 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Disposition of a variance request

Title 40 Code of Federal Regulations Section 142.43, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987, is hereby

incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Public hearings on variances and schedules

Title 40 Code of Federal Regulations Section 142.44, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Action after hearing

40 Code of Federal Regulations Section 142.45, published at 52 FR 20675, June 2, 1987, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Alternative treatment techniques

Title 40 Code of Federal Regulations Section 142.46, published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

F. Exemptions Issued By the Administrator

1. Requirements for an exemption

Title 40 Code of Federal Regulations Section 142.50, published at 41 FR 2918, January 20, 1976; 63 FR 43847, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Exemption request

Title 40 Code of Federal Regulations Section 142.51, published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Consideration of an exemption request

Title 40 Code of Federal Regulations Section 142.52, published at 41 FR 2918, January 20, 1976, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Disposition of an exemption request

Title 40 Code of Federal Regulations Section 142.53, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987; 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Public hearings on exemption schedules

Title 40 Code of Federal Regulations Section 142.54, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Final schedule

Title 40 Code of Federal Regulations Section 142.55, published at 41 FR 2918, January 20, 1976, as amended at 52 FR 20675, June 2, 1987; 63 FR 43847, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. Extension of date for compliance

Title 40 Code of Federal Regulations Section 142.56, published at 52 FR 20676, June 2, 1987; 63 FR 43847, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. Bottled water, point-of-use, and point-of-entry devices

Title 40 Code of Federal Regulations Section 142.57, published at 56 FR 3596, January 30, 1991, as amended at 56 FR 30280, July 1, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

G. Identification of Best technology, Treatment Techniques or Other Means Generally Available

1. Variances from the maximum contaminant level for total trihalomethanes

Title 40 Code of Federal Regulations Section 142.60, published at 48 FR 8414, February 28, 1983, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Variances from the maximum contaminant level for fluoride

Title 40 Code of Federal Regulations Section 142.61, published at 51 FR 11411, April 2, 1986, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Variances and exemptions from the maximum contaminant levels for organic and inorganic chemicals and exemptions from the treatment technique for lead and copper

Title 40 Code of Federal Regulations Section 142.62, published at 56 FR 3596, January 30, 1991, as amended at 56 FR 26563, June 7, 1991; 57 FR 31848, July 17, 1992; 59 FR 33864, June 30, 1994 and 59 FR 34325, July 1, 1994; 66 FR 7066, January 22, 2001; 69 FR 38857, June 29, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. Variances and exemptions from the maximum contaminant level for total coliforms

Title 40 Code of Federal Regulations Section 142.63, published at 54 FR 27568, June 29, 1989, as amended at 56 FR 1557, January 15, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. Variances and exemptions from the requirements of Part 141, Subpart H - Filtration and Disinfection

Title 40 Code of Federal Regulations Section 142.64, published at 54 FR 27540, June 29, 1989, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. Variances and exemptions from the maximum contaminant levels for radionuclides

Title 40 Code of Federal Regulations Section 142.65, published at 65 FR 76751, December 7, 2000, § 142.65 was added and effective date December 2003, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

H. Indian Tribes

1. Requirements for Tribal Eligibility

Title 40 Code of Federal Regulations Section 142.72, published at 53 FR 37411, September 26, 1988, as amended at 59 FR 64344, December 14, 1994; 63 FR

43847, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Request by an Indian Tribe for a determination of treatment as a State

Title 40 Code of Federal Regulations Section 142.76, published at 53 FR 37411, September 26, 1988, as amended at 59 FR 64344, December 14, 1994, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Procedure for processing an Indian Tribe's application for treatment as a State

Title 40 Code of Federal Regulations Section 142.78, published at 53 FR 37411, September 26, 1988, as amended at 59 FR 64345, December 14, 1994; 63 FR 71376, December 28, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

I. Administrator's Review of State Decisions That Implement Criteria Under Which Filtration is Required

1. Review Procedures

Title 40 Code of Federal Regulations Section 142.80, published at 54 FR 27540, June 29, 1989, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Notice to the State

Title 40 Code of Federal Regulations Section 142.81, published at 54 FR 27540, June 29, 1989, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

J. Reserved

K. Variances For Small Systems

1. What is a small system variance?

Title 40 Code of Federal Regulations Section 142.301, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

2. Who can issue a small system variance?

Title 40 Code of Federal Regulations Section 142.302, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

3. Which size public water systems can receive a small system variance?

Title 40 Code of Federal Regulations Section 142.303, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

4. For which of the regulatory requirements is a small system variance available?

Title 40 Code of Federal Regulations Section 142.304, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

5. When can a small system variance be granted by a State?

Title 40 Code of Federal Regulations Section 142.305, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

6. What are the responsibilities of the public water system, State and the Administrator in ensuring that sufficient information is available and able for evaluation of a small system variance application?

Title 40 Code of Federal Regulations Section 142.306, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

7. What terms and conditions must be included in a small system variance?

Title 40 Code of Federal Regulations Section 142.307, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

8. What public notice is required before a State or the Administrator proposes to issue a small system variance?

Title 40 Code of Federal Regulations Section 142.308, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

9. What are the public meeting requirements associated with the proposal of a small system variance?

Title 40 Code of Federal Regulations Section 142.309, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

10. How can a person served by the public water system obtain EPA review of a State proposed small system variance?

Title 40 Code of Federal Regulations Section 142.310, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

11. What procedures allow the Administrator to object to a proposed small system variance or overturn a granted small system variance for a public water system serving 3,300 or fewer persons?

Title 40 Code of Federal Regulations Section 142.311, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

12. What EPA action is necessary when a State proposes to grant a small system variance to a public water system serving a population of more than 3,300 and fewer than 10,000 persons?

Title 40 Code of Federal Regulations Section 142.312, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

13. How will the Administrator review a State's program under this subpart?

Title 40 Code of Federal Regulations Section 142.313, published at 63 FR 43848, August 14, 1998, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

**SECTION 9: SECONDARY DRINKING WATER REGULATIONS (40 CFR, PART 143)**

## A. General Provisions

## 1. Purpose

Title 40 Code of Federal Regulations Section 143.1, published at 44 FR 42198, July 19, 1979, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

## 2. Definitions

Title 40 Code of Federal Regulations Section 143.2, published at 44 FR 42198, July 19, 1979, as amended at 53 FR 37412, September 26, 1988, is hereby incorporated herein by this reference with the exceptions, additions or changes set forth below. A copy of this regulation is attached to these rules.

"Administrator" means the Commissioner of the Department of Health and Human Services or the designated representative thereof.

"Public water system" means a public water system as defined in Section 2 of these rules.

"State" means the State of Maine.

## 3. Secondary maximum contaminant levels

Title 40 Code of Federal Regulations Section 143.3, published at 44 FR 42198, July 19, 1979, as amended at 51 FR 11412, April 2, 1986 and 56 FR 3597, January 30, 1991, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

## 4. Monitoring

Title 40 Code of Federal Regulations Section 143.4, published at 44 FR 42198, July 19, 1979, as amended at 53 FR 5147, February 19, 1988; 56 FR 30281, July 1, 1991 and 59 FR 62470, December 5, 1994; 64 FR 67466, December 1, 1999; 67 FR 65252, October 23, 2002; 69 FR 18803, April 9, 2004, is hereby incorporated herein by this reference. A copy of this regulation is attached to these rules.

## **SECTION 10: LABORATORY CERTIFICATION**

All laboratories performing water testing for compliance purposes must be certified under the Maine Comprehensive Environmental Laboratory Certification Rules, under 22 MRSA, Chapter 157-A.

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## **SECTION 11: EMERGENCY RESPONSE PLANS AND NOTIFICATION PROCEDURES FOR PUBLIC WATER SYSTEMS**

Title IV of the Public Health Security and Bioterrorism Response Act of 2002 (Bioterrorism Act), which amends the Safe Drinking Water Act, requires all public water systems serving more than 3,300 persons to complete Vulnerability Assessments and develop or revise Emergency Response Plans.

All public water systems in Maine should prepare and implement or update existing emergency and security plans to include foreseeable and unforeseeable disturbance relating to production and supply of safe drinking water.

### **A. Emergency and Security Planning**

1. Emergency situations include, but are not limited to the following situations:
  - a. A failure or significant interruption in the production of drinking water;
  - b. A natural disaster that disrupts the water supply;
  - c. A chemical spill or biological substance introduced into the water source, that increases the potential for contamination;
  - d. The failure of cross connections;
  - e. Intentional physical intrusions of the water system;
  - f. Any other activity that disturbs the production and supply of safe drinking water.
2. All public water systems serving a population of more than 3,300 persons in Maine that are required to prepare and implement or update an existing emergency response plan (ERP) must make the plan available for inspection by Department staff upon request.
3. The ERP shall include, but not by way of limitation, the following information to be utilized in the event of a terrorist or other intentional act perpetrated against the public water system:

- a. Actions, plans, procedures and equipment to be utilized to lessen the impact of the intentional act;
- b. Emergency contact information;
- c. Any other information deemed necessary to deal with the emergency.

B. Security Breaches and Emergency Notification Requirements

1. All public water systems reporting security breaches, tampering events or other emergencies affecting water system components to law enforcement must report the incidents to the Department.
2. All Public Utilities Commission (PUC)-regulated water systems reporting security-related incidents to law enforcement agencies must report such incidents to both the Department and the PUC.
3. All public water systems experiencing emergency events involving biological or chemical contamination of water system components must report said events to the Department.

**EFFECTIVE DATE:**

January 13, 1980

**AMENDED:**

April 20, 1980

June 17, 1981

November 22, 1983

October 29, 1991

January 2, 1993

June 8, 1994

February 6, 1995

August 26, 1995

**EFFECTIVE DATE (ELECTRONIC CONVERSION):**

May 5, 1996

**AMENDED:**

June 25, 1998 - Section 7(C,D,G)

June 19, 1999 - Sections 2 (APA, CAPACITY), 3 (A,D,E)

June 20, 2001- Sections 1-A, Section 7 and 8

June 20, 2001

October 24, 2001

November 4, 2002

August 18, 2003 – Sections 1, 1-B, 2, 3, 4, 6, 11

November 2, 2004

September 17, 2006