

§2647-A. Protection of public water source

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

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

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

5. Remedy ordered by water district or consumer-owned utility. If the municipal officers have failed to act on a malfunctioning wastewater disposal unit under Title 30-A, section 3428 and have notified a consumer-owned water utility as defined in Title 35-A, section 6101 in writing of their failure to do so, the consumer-owned water utility may assume the rights of municipal officers under Title 30-A, section 3428, except that it may not assess a special tax under Title 30-A, section 3428, subsection 4, paragraph B.

[PL 1991, c. 467, §2 (NEW).]

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

[PL 1991, c. 467, §2 (NEW).]

SECTION HISTORY

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

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