

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
S.P. 64 - L.D. 129

**Resolve, To Protect Consumers of Public Drinking Water by Establishing
Maximum Contaminant Levels for Certain Substances and Contaminants**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Whereas, perfluoroalkyl and polyfluoroalkyl substances are being identified at alarming levels in well water across the State; and

Whereas, perfluoroalkyl and polyfluoroalkyl substances are increasingly associated with significant health concerns that have major consequences for the residents of this State; and

Whereas, there is currently no enforceable standard to require water systems to test and treat for perfluoroalkyl and polyfluoroalkyl substances; and

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

Sec. 1. Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

1. Community water system. "Community water system" has the same meaning as in the Maine Revised Statutes, Title 22, section 2660-B, subsection 2.

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

3. Nontransient, noncommunity water system. "Nontransient, noncommunity water system" means a nontransient, noncommunity water system described in the Maine Revised Statutes, Title 22, section 2660-B, subsection 5, paragraph A that is a school or

child care facility regulated as a nontransient, noncommunity water system under the federal Safe Drinking Water Act.

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

5. Regulated PFAS contaminants. "Regulated PFAS contaminants" means perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, perfluoroheptanoic acid and perfluorodecanoic acid.

Sec. 2. Interim drinking water standard and testing requirements for perfluoroalkyl and polyfluoroalkyl substances. Resolved: That community water systems and nontransient, noncommunity water systems shall comply with the provisions of this section.

1. Initial monitoring. On or before December 31, 2022, all community water systems and nontransient, noncommunity water systems shall conduct monitoring for the level of PFAS detectable using standard laboratory methods established by the United States Environmental Protection Agency in effect at the time of sampling. Monitoring under this subsection must be conducted for all regulated PFAS contaminants and additional PFAS included in the list of analytes in the standard laboratory methods established by the United States Environmental Protection Agency in effect at the time of sampling.

2. Subsequent monitoring. After completion of initial monitoring under subsection 1, a community water system or a nontransient, noncommunity water system shall conduct continued monitoring for the presence of regulated PFAS contaminants in drinking water supplied by the water system as follows until the adoption of rules required under section 3.

A. If initial monitoring under subsection 1 detects the presence of any regulated PFAS contaminants individually or in combination at or above 20 nanograms per liter, the community water system or nontransient, noncommunity water system shall conduct continued quarterly monitoring until regulated PFAS contaminants are mitigated as described in subsection 4.

B. If initial monitoring under subsection 1 detects the presence of any regulated PFAS contaminants at or above each analyte's lowest concentration minimum reporting level as specified in the standard laboratory methods established by the United States Environmental Protection Agency in effect at the time of sampling and the level is below 20 nanograms per liter, either individually or in combination with other detected regulated PFAS contaminants, the community water system or nontransient, noncommunity water system shall conduct continued monitoring annually.

3. Reporting. Monitoring results must be reported to the department in accordance with 10-144 C.M.R. Chapter 231, Section 6.

4. Treatment; notice. If monitoring results under subsection 1 or 2 confirm the presence of any regulated PFAS contaminants individually or in combination in excess of 20 nanograms per liter, the department shall:

A. Direct the community water system or nontransient, noncommunity water system to implement treatment or other remedies to reduce the combined levels of regulated PFAS contaminants in the drinking water of the water system below 20 nanograms per liter; and

B. Direct the community water system or nontransient, noncommunity water system to issue a notice to all users of the water system to inform them of the detected PFAS concentration and potential risk to public health until the treatment under paragraph A is completed.

5. Enforcement. The department may enforce the requirements of this section under the Maine Revised Statutes, Title 22, chapter 601, subchapter 2. A person may appeal the acts or decisions of the department under this section in accordance with Title 22, chapter 601, subchapter 2-A.

Sec. 3. Maximum contaminant level for perfluoroalkyl and polyfluoroalkyl substances. Resolved: That the department shall adopt a maximum contaminant level for perfluoroalkyl and polyfluoroalkyl substances in accordance with this section. Rules adopted pursuant to this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

1. Advance notice of proposed rulemaking. On or before August 1, 2023, the department shall initiate a public notice and comment process for potential rulemaking by publishing an advance notice of proposed rulemaking regarding the department's regulation of regulated PFAS contaminants.

2. Proposed rule. On or before December 31, 2023, the department shall file a proposed rule with the Secretary of State establishing a maximum contaminant level for regulated PFAS contaminants and monitoring requirements for community water systems and nontransient, noncommunity water systems.

3. Final rule. On or before June 1, 2024, the department shall file a final rule with the Secretary of State regarding the regulation of regulated PFAS contaminants. The department may adopt federal regulatory requirements established by the United States Environmental Protection Agency, including maximum contaminant levels for regulated PFAS contaminants, if the new federal requirements are the same as or more restrictive than the interim drinking water standards described in section 2. The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters upon adoption of the final rule that includes information about the final rule, including but not limited to the maximum contaminant levels adopted. The joint standing committee of the Legislature having jurisdiction over health and human services matters may report out legislation relating to the report.

Sec. 4. Repeal of interim drinking water standard and testing requirements. Resolved: That the interim drinking water monitoring requirements for PFAS and regulated PFAS contaminants under section 2 are repealed on the effective date of the rules required under section 3.

Sec. 5. Report by the Department of Health and Human Services. Resolved: That, beginning January 1, 2022 and annually thereafter until the rules pursuant to section 3, subsection 3 are finally adopted, the Department of Health and Human Services shall report to the joint standing committee of the Legislature having jurisdiction

over health and human services matters on the number of water systems tested, what levels of perfluoroalkyl and polyfluoroalkyl substances were indicated upon testing and the status of the rule-making process under this resolve. The joint standing committee of the Legislature having jurisdiction over health and human services matters may report out legislation relating to each report.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.