

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 129

S.P. 64

In Senate, January 21, 2021

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

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Received by the Secretary of the Senate on January 19, 2021. Referred to the Committee
on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator STEWART of Aroostook.

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

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

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

6 3. "Nontransient, noncommunity water system" means a nontransient, noncommunity
7 water system described in the Maine Revised Statutes, Title 22, section 2660-B, subsection
8 5, paragraph A that is a school or child care facility regulated as a nontransient,
9 noncommunity water system under the federal Safe Drinking Water Act.

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

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

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

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

28 **2. Subsequent monitoring.** After completion of initial monitoring under subsection
29 1, a community water system or a nontransient, noncommunity water system shall conduct
30 continued monitoring for the presence of regulated PFAS contaminants in drinking water
31 supplied by the water system as follows until the adoption of rules required under section
32 3.

33 A. If initial monitoring under subsection 1 detects the presence of any regulated PFAS
34 contaminants individually or in combination at or above the United States
35 Environmental Protection Agency health advisory level of 70 parts per trillion, the
36 community water system or nontransient, noncommunity water system shall conduct
37 continued quarterly monitoring until regulated PFAS contaminants are mitigated as
38 described in subsection 4.

39 B. If initial monitoring under subsection 1 detects the presence of any regulated PFAS
40 contaminants at or above each analyte's lowest concentration minimum reporting level
41 as specified in the standard laboratory methods established by the United States
42 Environmental Protection Agency in effect at the time of sampling and the level is
43 below the United States Environmental Protection Agency health advisory level of 70

1 parts per trillion, either individually or in combination with other detected regulated
2 PFAS contaminants, the community water system or nontransient, noncommunity
3 water system shall conduct continued monitoring annually.

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

6 **4. Treatment; notice.** If monitoring results under subsection 1 or 2 confirm the
7 presence of any regulated PFAS contaminants individually or in combination in excess of
8 the United States Environmental Protection Agency health advisory level of 70 parts per
9 trillion, the department shall:

10 A. Direct the community water system or nontransient, noncommunity water system
11 to implement treatment or other remedies to reduce the combined levels of regulated
12 PFAS contaminants in the drinking water of the water system below the United States
13 Environmental Protection Agency health advisory level; and

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

18 **5. Enforcement.** The department may enforce the requirements of this section under
19 the Maine Revised Statutes, Title 22, chapter 601, subchapter 2. A person may appeal the
20 acts or decisions of the department under this section in accordance with Title 22, chapter
21 601, subchapter 2-A.

22 **Sec. 3. Maximum contaminant level for perfluoroalkyl and polyfluoroalkyl**
23 **substances. Resolved:** That the department shall adopt a maximum contaminant level
24 for perfluoroalkyl and polyfluoroalkyl substances in accordance with this section.

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

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

33 **3. Final rule.** On or before June 1, 2024, the department shall file a final rule with the
34 Secretary of State regarding the regulation of regulated PFAS contaminants. The
35 department may adopt federal regulatory requirements established by the United States
36 Environmental Protection Agency, including maximum contaminant levels for regulated
37 PFAS contaminants, if the new federal requirements are the same as or more restrictive
38 than the interim drinking water standards described in section 2.

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

1 **SUMMARY**

2 The purpose of this resolve is to adopt measures to protect consumers of public
3 drinking water in Maine from potential health impacts associated with perfluoroalkyl and
4 polyfluoroalkyl substances known as PFAS. The resolve requires community water
5 systems and schools and child care facilities regulated as nontransient, noncommunity
6 water systems to conduct monitoring for perfluoroalkyl and polyfluoroalkyl substances. If
7 the monitoring results detect the presence of perfluorooctanoic acid, perfluorooctane
8 sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid or perfluoroheptanoic
9 acid at a level in excess of an interim standard, the water system is required to conduct
10 additional monitoring. The resolve also directs the Department of Health and Human
11 Services to undertake rulemaking to establish an enforceable maximum contaminant level
12 for the 5 PFAS by June 1, 2024, which can include adoption of a federal maximum
13 contaminant level if one is available and at least as restrictive as the interim standard.