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.

Presented by Senator STEWART of Aroostook.
Sec. 1. Definitions. Resolved: That, as used in this resolve, the following terms have the following meanings.

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

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

3. "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" 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" means perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid and perfluoroheptanoic 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 the United States Environmental Protection Agency health advisory level of 70 parts per trillion, 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 the United States Environmental Protection Agency health advisory level of 70.
parts per trillion, 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
the United States Environmental Protection Agency health advisory level of 70 parts per
tillion, 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 the United States
Environmental Protection Agency health advisory level; 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.

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.

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.
SUMMARY

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