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House of Representatives, April 7, 2021

**An Act To Require Testing of Public Drinking Water Supplies for
Toxic Perfluoroalkyl and Polyfluoroalkyl Substances and To
Establish Maximum Contaminant Levels**

Received by the Clerk of the House on April 5, 2021. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PLUECKER of Warren.
Cosponsored by Senator MIRAMANT of Knox and
Representatives: FAY of Raymond, GRAMLICH of Old Orchard Beach, PARRY of Arundel,
RUDNICKI of Fairfield, Senator: CLAXTON of Androscoggin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §2610-A** is enacted to read:

3 **§2610-A. Testing, reporting and treatment of perfluoroalkyl and polyfluoroalkyl**
4 **substances in drinking water**

5 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
6 following terms have the following meanings.

7 **A. "Action level for PFAS" means:**

8 (1) For regulated PFAS contaminants, 20 nanograms per liter or the maximum
9 contaminant levels adopted by the department by rule pursuant to subsection 5,
10 paragraph A, either individually for any one of the regulated PFAS contaminants
11 or as the sum concentration of 2 or more of the regulated PFAS contaminants; or

12 (2) For PFAS that are not regulated PFAS contaminants and for which the
13 department has adopted a maximum contaminant level by rule pursuant to
14 subsection 5, paragraph B, the maximum contaminant level for that PFAS.

15 **B. "Community water system" has the same meaning as in section 2660-B, subsection**
16 **2.**

17 **C. "Noncommunity water system" has the same meaning as in section 2660-B,**
18 **subsection 5.**

19 **D. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means any member of**
20 **the class of fluorinated organic chemicals containing at least one fully fluorinated**
21 **carbon atom.**

22 **E. "Regulated PFAS contaminants" means perfluorooctanoic acid,**
23 **perfluorooctanesulfonic acid, perfluorohexanesulfonic acid, perfluorononanoic acid,**
24 **perfluoroheptanoic acid and perfluorodecanoic acid.**

25 **2. Testing for PFAS.** On or before December 31, 2022, each community water system
26 and noncommunity water system shall send samples of water provided by its system to an
27 approved laboratory under section 2607 to be tested using the drinking water laboratory
28 methods for PFAS developed and published by the United States Environmental Protection
29 Agency for all PFAS analytes that can be effectively measured using those methods at the
30 time the samples were taken.

31 **A. If testing under this subsection detects the presence of regulated PFAS**
32 **contaminants at a level equivalent to or in excess of the action level for PFAS, the**
33 **community water system or noncommunity water system shall:**

34 **(1) Report such test results in accordance with subsection 3;**

35 **(2) Notify all potential users of water provided by the system of the detected**
36 **regulated PFAS contaminants and the potential risk to public health associated with**
37 **the consumption of water provided by the system until properly treated;**

38 **(3) Implement treatment measures in accordance with subsection 4 to treat the**
39 **water provided by the system; and**

40 **(4) Continue to test samples of the system's water pursuant to this subsection on a**
41 **quarterly basis, except when a different testing frequency is specified by the**

1 department by rule adopted pursuant to subsection 5, paragraph C, until testing
2 does not detect the presence of regulated PFAS contaminants at a level equivalent
3 to or in excess of the action level for PFAS, after which testing must continue
4 pursuant to paragraph B.

5 B. If testing under this subsection does not detect the presence of regulated PFAS
6 contaminants at a level equivalent to or in excess of the action level for PFAS, the
7 community water system or noncommunity water system shall continue to test samples
8 of water pursuant to this subsection on an annual basis except when a different testing
9 frequency is specified by the department by rule adopted pursuant to subsection 5,
10 paragraph C.

11 **3. Reporting of test results.** A community water system or noncommunity water
12 system that conducts testing pursuant to subsection 2 shall submit to the department the
13 results of such testing. A community water system shall ensure that the results of testing
14 conducted pursuant to subsection 2 are included in the annual consumer confidence reports
15 required under section 2615-A, subsection 1.

16 **4. Treatment.** If testing under subsection 2 detects the presence of regulated PFAS
17 contaminants at a level equivalent to or in excess of the action level for PFAS, the
18 community water system or noncommunity water system shall implement necessary
19 treatment measures as directed by the department to reduce the level of regulated PFAS
20 contaminants below the action level for PFAS.

21 **5. Enforcement; rules.** The department shall administer and enforce this section and
22 shall adopt rules necessary to implement this section. Rules adopted pursuant to this
23 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

24 A. The department may adopt rules establishing maximum contaminant levels for
25 regulated PFAS contaminants as long as such adopted maximum contaminant levels
26 are not more than 20 nanograms per liter, both individually for each regulated PFAS
27 contaminant and as the sum concentration of 2 or more of the regulated PFAS
28 contaminants. If the department adopts rules establishing maximum contaminant
29 levels for regulated PFAS contaminants, the testing for, reporting on and treatment
30 measures for regulated PFAS contaminants under subsections 2 to 4 must be conducted
31 based on the maximum contaminant levels for regulated PFAS contaminants as
32 established by the department by rule pursuant to this subsection.

33 B. The department may adopt rules requiring community water systems and
34 noncommunity water systems under this section to test for, report on and implement
35 treatment measures for PFAS that are not regulated PFAS contaminants and may adopt
36 rules establishing maximum contaminant levels for such PFAS. If the department
37 adopts rules under this subsection establishing maximum contaminant levels for PFAS
38 that are not regulated PFAS contaminants, the department shall require testing for,
39 reporting on and treatment measures for such PFAS under subsections 2 to 4 to be
40 conducted based on those adopted maximum contaminant levels.

41 C. The department may adopt rules regarding the frequency with which community
42 water systems and noncommunity water systems are required to test for regulated
43 PFAS contaminants and for PFAS that are not regulated PFAS contaminants for which
44 testing has been required by rule pursuant to paragraph B. In adopting rules pursuant
45 to this paragraph, the department shall account for the number of individuals served by

1 a community water system or noncommunity water system and for the type of PFAS
2 identified through prior testing. The rules must at a minimum require:

3 (1) At least quarterly testing of community water systems and noncommunity
4 water systems when prior testing has detected the presence of regulated PFAS
5 contaminants or PFAS that are not regulated PFAS contaminants at a level
6 equivalent to or in excess of the action level for PFAS; and

7 (2) Testing at least once every 3 years of community water or noncommunity water
8 systems where prior testing has detected the presence of regulated PFAS
9 contaminants or PFAS that are not regulated PFAS contaminants at a level less
10 than the action level for PFAS.

11 **SUMMARY**

12 This bill requires each community water system and noncommunity water system to
13 send samples of water provided by its system to an approved laboratory to be tested for
14 perfluoroalkyl and polyfluoroalkyl substances, or PFAS, on or before December 31, 2022.
15 If such testing detects the presence of certain PFAS at a level equivalent to or in excess of
16 20 nanograms per liter, the community water system or noncommunity water system is
17 required to implement necessary treatment measures directed by the Department of Health
18 and Human Services to reduce the levels of those PFAS contaminants below the 20
19 nanograms per liter threshold.

20 The department is required to administer and enforce these requirements and to adopt
21 implementing rules, which may include rules establishing maximum contaminant levels
22 for PFAS contaminants.