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.

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

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

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

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

A. "Action level for PFAS" means:

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

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

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

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

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

E. "Regulated PFAS contaminants" means perfluorooctanoic acid, perfluorooctanesulfonic acid, perfluorohexanesulfonic acid, perfluorononanoic acid, perfluorohexanoic acid and perfluordecanoic acid.

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

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

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

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

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

(4) Continue to test samples of the system's water pursuant to this subsection on a quarterly basis, except when a different testing frequency is specified by the
4. Treatment. If testing under subsection 2 detects the presence of regulated PFAS contaminants at a level equivalent to or in excess of the action level for PFAS, the community water system or noncommunity water system shall implement necessary treatment measures as directed by the department to reduce the level of regulated PFAS contaminants below the action level for PFAS.

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

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

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

C. The department may adopt rules regarding the frequency with which community water systems and noncommunity water systems are required to test for regulated PFAS contaminants and for PFAS that are not regulated PFAS contaminants for which testing has been required by rule pursuant to paragraph B. In adopting rules pursuant to this paragraph, the department shall account for the number of individuals served by
a community water system or noncommunity water system and for the type of PFAS identified through prior testing. The rules must at a minimum require:

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

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

SUMMARY

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

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