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Senator Ingwersen, Chair
Representative Meyer, Chair
Members, Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 1326 – An Act to Protect the Drinking Water for Consumers of Certain Water Systems by Establishing Maximum Contaminant Levels for Certain Perfluoroalkyl and Polyfluoroalkyl Substances

Senator Ingwersen, Representative Meyer and members of the Joint Standing Committee on Health and Human Services, thank you for the opportunity to provide information in opposition to LD 1326, *An Act to Protect the Drinking Water for Consumers of Certain Water Systems by Establishing Maximum Contaminant Levels for Certain Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)*.

This bill includes rulemaking authority to lower the maximum level of a contaminant or add a regulated PFAS contaminant other than those specified in the legislation. If enacted. beginning January 2026, all community water systems and non-transient, non-community water systems must monitor for PFAS. LD 1326 specifies detection thresholds for ongoing periodic sampling and monitoring.

While there is full agreement with lowering the current interim standard for PFAS in drinking water to match the federal PFAS Maximum Contaminant Levels (MCLs) as required by the federal Safe Drinking Water Act to maintain regulatory primacy, this action is already authorized by Resolve 2021 chapter 82, introduced as LD 129 and enacted in the 130th Legislature, and to comply, rulemaking is underway and being conducted in accordance with 5 MRS chapter 375, Maine Administrative Procedure Act, which will provide opportunity for public comment on the proposed changes. LD 1326 contains details that are slightly different than the federal PFAS Rule (40 CFR Part 141 Subpart Z) so if enacted as written, it will be burdensome and confusing for Maine's Public Water Systems (PWS) without adding any public health benefit. It will also require Maine CDC Drinking Water Program (DWP) staff to administer multiple regulations, including the calculation of MCL violations in two different ways.

Chapter 82 already requires the promulgation of MCLs that are lower than the current interim standard and at least as protective as the federal PFAS Rule. The DWP is in the process of promulgating administrative rules and, once the Department adopts a final PFAS rule, if there is future relaxation of federal regulations, this administrative rule, which will be based on the current federal requirements, will remain in effect and enforceable at the State level.

A PFAS rule adopted by the Department will need to be as protective of human health as those currently required by the federal PFAS Rule, for both required PFAS compounds and associated MCLs, as identified here:

1. Perfluorooctanoic acid (PFOA), 4 parts per trillion (ppt);
2. Perfluorooctane sulfonic acid (PFOS), 4 ppt;
3. Perfluorohexane sulfonic acid (PFHxS), 10 ppt;

4. Perfluorononanoic acid (PFNA), 10 ppt; (20 ppt in LD 1326, so this is more stringent)
5. Hexafluoropropylene oxide dimer acid (HFPO-DA), 10 ppt; and
6. A Hazard Index calculation for mixtures of PFHxS, PFNA, HFPO-DA and perfluorobutane sulfonic acid (PFBS).

These federal MCLs do not include the PFAS compounds Perfluoroheptanoic acid (PFHpA) and Perfluorodecanoic acid (PFDA), however these two compounds are components of the Maine interim standard and require monitoring, per Rslv 2021 c. 82. Based on all data from currently regulated Public Water Systems (PWS), PFDA and PFHpA are not present at levels that would solely cause an MCL exceedance. For this reason, if LD 1326 is to be enacted, Maine CDC requests that the final language omit PFDA and PFHpA, aligning with the federal list. All PWSs that are projected to violate the federal MCLs exceed the 4 ppt MCLs for PFOS and PFOA, the most common PFAS in Maine.

If enacted, Maine will be administering a different version of a regulation set forth by the EPA. Calculating and tracking both State and federal violations of PFAS MCLs for every Public Water System on a quarterly or annual basis will cause confusion to the PWSs, and with two versions of regulations, additional DWP staff resources will be needed to ensure appropriate support and monitoring for compliance. Additionally, the implementation dates and monitoring requirements do not exactly match the federal regulations. The provisions of LD 1326, as written, do not encompass all federally regulated PWSs, only Community Water Systems and Non-transient, noncommunity systems that are schools or childcare facilities. The Maine CDC recommends expanding the bill's definition of "Non-transient, non-community water system" (NTNC). As written, it only applies to NTNC water systems that are schools or child care facilities, whereas the new federal PFAS Rule applies to all NTNC water systems.

In conclusion, Maine CDC opposes LD 1326 and respectfully asks the Committee to vote ought not to pass. Passage of this bill will create excessively burdensome and confusing regulations for PWSs without providing additional public health benefit; an increase in costs is anticipated for systems to comply if this bill passes, due to the inconsistencies that are outlined in this testimony. Since LD 1326 is largely aligned with EPA's compounds and MCLs, implementing the federal PFAS Rule through the promulgation of State rules is the most efficient way to reduce PFAS exposure from drinking water and does not require this legislation.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

Puthiery Va, DO
Director
Maine Center for Disease Control and Prevention
Maine Department of Health and Human Services