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April 24, 2025

Senator Ingwersen
Representative Meyer
Joint Standing Committee on Health and Human Services
Cross Office Building, Room 209
Augusta, Maine 04333
HHS@legislature.maine.gov

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"*

Dear Senator Ingwersen, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services:

We are writing following the public hearing on LD 1326 to respectfully urge you to support passage of this bill, which, crucially, codifies Maximum Contaminant Levels (MCLs) for per- and polyfluoroalkyl substances (PFAS) into Maine statute. These persistent and toxic chemicals pose a significant public health risk, and it is critical that our state take decisive action to protect drinking water for all communities.

While the overwhelming majority of testimony was in favor of passage of LD 1326, some testified against it, urging that limits are better set through administrative rulemaking. This position is profoundly misguided and places the public at risk.

As you may be aware, in 2024 the U.S. Supreme Court overturned the *Chevron v. NRDC* decision, which had long required courts to defer to reasonable interpretations of ambiguous statutes by federal agencies such as the Environmental Protection Agency (EPA).[1] The *Chevron* doctrine provided a framework for regulatory stability and allowed technical experts at agencies to respond flexibly to evolving environmental and scientific challenges.

With *Chevron* no longer in effect, agency rules—including PFAS MCLs—may be subject to increased judicial scrutiny and potentially less deference in court. Among multiple executive orders signed by President Trump targeting environmental regulations, an April 9, 2025 order directs all agency heads to repeal any regulations they conclude violate the Supreme Court's

[1] See *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), overruling the principle of Chevron deference established in Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc. (1984), which had directed courts to defer to an agency's reasonable interpretation of an ambiguity in a law that the agency enforces

decision overturning the *Chevron* doctrine – immediately and without following the notice-and-comment procedures normally required for adopting and repealing rules.[2] Moreover, President Trump "has said he instructed Environmental Protection Agency head Secretary Lee Zeldin to 'immediately go back to my Environmental Orders' from his first term in office, scrapping alterations made by the Biden administration including on water regulations."[3]

Some of the testimony opposing LD 1326 mentioned the "anti-backsliding" provisions of the Safe Drinking Water Act, suggesting it would be impossible for the PFAS standards to be rolled back. These provisions require that "each revision" of a drinking water regulation "maintain, or provide for greater, protection of the health of persons." [4] While on paper this language appears to establish a bright line preventing repeal, President Trump's recent executive order indicates his administration intends to bypass such guardrails. Even without taking any action to repeal or revise the PFAS MCL, the EPA could render the standard meaningless simply by failing to enforce it.

The overturning of the *Chevron* doctrine, combined with the announced intention of the federal government to repeal numerous environmental regulations, creates an uncertain future for federal environmental protections and underscores the need for states to establish their own enforceable standards to safeguard public health. Given the President's directive to repeal regulations without notice and without following the Administrative Procedures Act, these changes could be carried out suddenly and hamstring the State's capacity to respond quickly to ensure continuity and enforceability of our drinking water protections.

By adopting PFAS MCLs through statute, as the Maine Legislature has previously done, rather than relying solely on administrative rulemaking, the Maine Legislature can provide clear, durable protections that are less vulnerable to legal challenge. This approach ensures consistency, upholds public trust in water safety, and demonstrates our state's leadership in environmental health.

PFAS contamination affects communities across socioeconomic and geographic boundaries, often disproportionately harming vulnerable populations. Studies have shown that children are particularly susceptible to harmful medical outcomes. Setting science-based, enforceable limits on PFAS in drinking water is not just a matter of environmental responsibility—it is a matter of justice and public health.

We respectfully ask the committee to advance legislation that enshrines PFAS MCLs based on the best available science into law, as LD 1326 proposes to do. Our communities cannot wait for federal action or uncertain court rulings. The time to act is now.

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[2] Memorandum For The Heads Of Executive Departments And Agencies; Subject: Directing The Repeal Of Unlawful Regulations (April 9, 2025), https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/. The order states: "In effectuating repeals of facially unlawful regulations, agency heads shall finalize rules without notice and comment, where doing so is consistent with the "good cause" exception in the Administrative Procedure Act. That exception allows agencies to dispense with notice-and-comment rulemaking when that process would be "impracticable, unnecessary, or contrary to the public interest."

[3] See https://www.newsweek.com/donald-trump-issues-new-water-standards-us-what-know-2029495

[4] Safe Water Drinking Act (SDWA), 42 U.S.C. 300g-1(b)(7)(A).

Thank you for your consideration and your service to our state.

Sincerely,

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