



15 University Drive
Augusta, Maine 04330
207-623-9511

February 8, 2021

Honorable Ned Claxton, Senate Chair
Honorable Michele Meyer, House Chair
Joint Committee On Health and Human Services

Re: ***Testimony on LD 129 (support) and LD 164 (opposition)***

Dear Senator Claxton and Representative Meyer:

My name is Roger Crouse, I am the General Manager of the Kennebec Water District in Waterville, and I write to the Committee on behalf of the Maine Water Utilities Association. Our Association appreciates the opportunity to provide comments regarding the following bills related to establishing maximum contaminant levels (MCL's) for Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS):

- **LD 129**, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Levels for Certain Substances and Contaminants (support)
- **LD 164**, An Act To Establish Maximum Contaminant Levels under the State's Drinking Water Rules for Certain Perfluoroalkyl and Polyfluoroalkyl Substances (oppose)

About MWUA. The Maine Water Utilities Association is a nonprofit association based in Augusta that provides support for water works professionals throughout the State of Maine in advocating for safe drinking water through educational and technical programming as well as advocacy on the local, state, and national level. The Association was formed in 1925 and counts approximately 109 water utilities in Maine as members.

Background: setting MCLs for drinking water. Public Water Systems in Maine must meet the regulatory requirements established under the federal Safe Drinking Water Act and Maine's Water for Human Consumption Act. Regulatory limits have been established for more than 90 contaminants. None of these regulatory limits are established in State or federal statute. By allowing Maine's Drinking Water Program to establish regulatory limits by rule, toxicologist, scientists, engineers, and others within DHHS are able to develop regulations that establish a protective public health limit for contaminants. By way of example, in the late 1990s, Maine experienced a significant public health issue with the contamination of many ground water sources with the petroleum additive known as MTBE. In response, DHHS developed a maximum contaminant level for MTBE and a requirement for testing frequency. The process was accomplished by rule, not statute.

Background: Maine PFAS Task Force. In 2019, Governor Mills commissioned the Maine PFAS Task Force, a group of regulatory department heads, environmental advocates, water & wastewater professionals, industry representatives and others to recommend what action the State of Maine should take in response to PFAS. The Task Force completed its work in January of 2020 and issued a comprehensive report that included important recommendations, including an overarching recommendation that Maine should quantify the issue and follow current EPA health advisory levels as a threshold for action. Our Association supports the framework recommendations of the Task Force.

Letter from MWUA re LD 129 and LD 164

February 8, 2021

Page 2

LD 129: Support. Our Association supports LD 129 as it follows the basic framework set forth in the Maine PFAS Taskforce and the Safe Drinking Water Act. Specifically, this bill utilizes a scientific and pragmatic approach to setting MCL's for PFAS contaminants. This approach ensures that the State has regulatory flexibility to set MCL levels by rule based on science, and to change MCL levels based on any changes in scientific understanding. This approach also allows time for the EPA, which only last month announced a requirement for limited testing for an additional 29 PFAS compounds in drinking water, to develop a national approach for dealing with this complex issue. A nationally consistent, science-based approach to setting MCL level makes sense given the significant capital expenditures necessary to address contaminant levels. We fully support this regulatory-based approach, and we urge you to report this bill out Ought To Pass.

LD 164: Oppose. LD 164, by contrast, looks to set an MCL standard for PFAS in statute that cannot be changed other than through legislative action. Given that scientific understanding of PFAS is likely to change over time, having regulatory flexibility for the Drinking Water Program to modify MCL levels makes sense. In addition, we note that the MCL standard proposed in LD 164 is less than a third of the current EPA recommendation, and makes no allowance for the developing science on the issue itself. Likewise, this bill only addresses six of what are literally thousands of synthetic per- and poly-fluoroalkyl substances known to be in existence today.

In the context of water utilities, LD 164 sets in stone an MCL standard that could force our community water systems to make capital investments which will impact water rates for the next two to three decades, based on incomplete science and potentially in conflict with a future federal standard. Such a statutory-based approach greatly increases the risk that Maine community drinking water systems – and their customers -- will be required to fix the same problem twice. This challenge is even more problematic at the current time when all Mainers are struggling with the financial, health and other challenges created by the current global pandemic. For these reasons, we urge the Committee to follow the more flexible approach recommended by the Maine PFAS Taskforce and reject the static, statutory standard called for in LD 164.

Conclusion. Again, we appreciate the opportunity to provide information to the Committee on these two bills, and if you have questions or need additional information, please do not hesitate to let us know.

Sincerely,



Roger Crouse

Chair, MWUA Legislative & Regulatory Committee

ec: Bruce Berger, Executive Director
James I. Cohen, Verrill Dana, LLP, Legislative Counsel