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Testimony of the
Maine Center for Disease Control and Prevention
Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

Neither for nor against LD 164
An Act To Establish Maximum Contaminant Levels under the State's Drinking Water Rules for
Certain Perfluoroalkyl and Polyfluoroalkyl Substances

Sponsored by: Representative Tucker
Hearing Date: Tuesday, February 9, 2021

Senator Claxton, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services, I am Andrew Smith, State Toxicologist and manager of the Environmental Health Program in the Maine Center for Disease Control and Prevention, Department of Health and Human Services (DHHS). I am here today to speak neither for nor against LD 164, *An Act To Establish Maximum Contaminant Levels under the State's Drinking Water Rules for Certain Perfluoroalkyl and Polyfluoroalkyl Substances*. This legislation establishes a maximum contaminant level of 20 nanograms per liter for six perfluoroalkyl substances (PFAS) both individually for each substance and as a sum concentration of two or more of those substances. The six PFAS chemicals are: perfluorooctane sulfonic acid (PFOS); perfluorooctanoic acid (PFOA); perfluorohexane sulfonic acid (PFHxS); perfluorononanoic acid (PFNA); perfluoroheptanoic acid (PFHpA); and perfluorodecanoic acid (PFDA).

The Department's Drinking Water Program is responsible for overseeing public water systems throughout Maine, administering the Federal Safe Drinking Water Act and the Maine Rules Relating to Drinking Water. The Drinking Water Program works with more than 1,900 public water systems to help ensure that they provide safe, secure, and reliable drinking water to over 750,000 people across Maine. LD 164, if enacted, will require the Department to undertake rulemaking to enforce the proposed maximum contaminant level. Adopted rules will establish the requirements around testing for these chemicals by public water systems, identify which public water systems will be subject to this maximum contaminant level, notification of test results, and treatment requirements

As you are aware, separate legislation, LD 129, has been submitted to this committee on the same subject. I have provided testimony in support of LD 129. The proposed legislation contained in LD 164 differs from LD 129 in several significant ways. First, it establishes a lower numerical standard: 20 nanograms per liter (also referred to as units of parts per trillion or ppt) versus 70 ppt. Second, it expands the number of PFAS chemicals subject to an enforceable standard by adding PFDA to the five already considered in LD 129. Third, it establishes the standard as a maximum contaminant level rather than an interim standard and in doing so does not allow for a rulemaking

process that would provide for greater stakeholder and public input. In doing so, it also sets up a future requirement that any change to this standard will require a change in law. The science on PFAS is evolving rapidly and we believe establishing a final MCL by rulemaking is preferable.

In our testimony on LD 129, the Department has stated its agreement that there is an emerging consensus in both science and precedent that support a drinking water limit of 20 ppt for two PFAS chemicals, PFOA and PFOS, certainly individually and arguably in combination. Yet we do not believe there is a similar consensus on applying a 20 ppt limit to the sum of a broader set of PFAS chemicals. Additionally, we have yet to decide whether we support the use of the summation approach for regulating a mixture of PFAS chemicals as LD 164 requires, or a chemical-by-chemical approach as the basis for a final MCL. Other states are doing it by both methods.

We have indicated our support for an amendment to LD 129 that would augment the currently proposed interim standard of 70 ppt for the sum of the 5 specified PFAS chemicals with an additional separate interim standard of 20 ppt applicable to the two PFAS chemicals PFOA and PFOS, either individually or in combination. Based on available data, we believe this amendment will come close to accomplishing the intent of applying a 20 ppt limit to six PFAS chemicals as proposed in LD 164. We believe there is an important role for rulemaking in developing a final MCL for PFAS chemicals. It provides the opportunity for stakeholder and public participation, a more in-depth consideration of science and regulatory impacts, and can be amended as needed by rulemaking.

We would like to emphasize the points where we agree. We agree there is a need for an enforceable standard now. We agree there is the need for a mandate to require community water systems, schools and childcare facilities regulated as public water systems to test for PFAS. We agree 20 ppt is an appropriate interim standard for the two PFAS chemicals PFOA and PFOS, individually or in combination.

Thank you for the opportunity to testify. I can take questions now and am very willing to participate in the work sessions.