

TESTIMONY OF DAVID LENNETT, SENIOR ADVISOR, NATURAL RESOURCES
DEFENSE COUNCIL, IN SUPPORT OF LD 1537

April 26, 2023

Chairperson Brenner, Chairperson Gramlich, Members of the Committee –

I had the privilege of serving as Director of DEP's Bureau of Remediation and Waste Management from 1999-2003, under Commissioner Martha Kirkpatrick in the second King Administration. During that time, I was responsible for implementing Maine's mercury products legislation, including the product reporting requirements. It is based upon that experience that I speak in support of LD 1537, since the lessons learned from the mercury products experience apply to the PFAS reporting and elimination program as well.

First, the national sales data on mercury-added products proved to be one of the most important data points we collected. The data greatly improved our understanding of which product categories were the most important to address, and thus facilitated a prioritization process for phase outs. It also created the most authoritative source of data on mercury use within product categories, promoted benchmarking by companies of their progress in reducing or eliminating mercury use, and was relied upon by US EPA and many other stakeholders for almost two decades.

DEP proposed requiring national sales data reporting in their first two concept drafts, but it omitted this requirement from the PFAS proposed rule now pending before the Board. Without these data, DEP and this Committee will know the PFAS concentration in particular products, but not the relative importance of the products in an orderly phase out program. Section 1 of LD 1537 would expressly require the reporting of national sales data.

Which brings me to my second point. From now until 2030, when the broad statutory ban on PFAS in products takes effect, DEP should be prioritizing product categories for analysis and phase out regulations to facilitate an orderly implementation of the law, and to achieve public health protections as quickly as possible. DEP can take advantage of similar activities elsewhere, such as states with 2025 PFAS phase-outs in the clothing (and other textiles) sector. Waiting until 2030 for every product category is inconsistent with your direction in current law, and it invites chaos in seven years given the range of product categories. Section 3 of LD 1537 operationalizes your intent in current law for a more systematic approach to PFAS elimination.

Third, DEP will need the ability to assess the data obtained, undertake sector research on PFAS alternatives availability, and complete a series of rulemakings between now and 2030. This will require staffing and consulting resources, not a huge amount, but at

a sufficient level and pay grade to make this work. The delays in issuing the proposed reporting rule are a clear signal to you about what may lie ahead under the current circumstances.

Finally, allow me to tell you a brief anecdote which illustrates the importance of the Maine law and your leadership in this area. I was recently in Pakistan for a World Bank funded project to eliminate PFAS and other toxic chemicals in textile manufacturing in four Asian countries. The project team and country representatives visited a large sports clothing there. At the factory, a senior official of the company made a presentation highlighting the global pressures to eliminate PFAS use by his company, and specifically mentioned the Maine law as one of the major catalysts triggering demands from his customers for expedited action. Your law is making a difference. Please enact LD 1537 to make it even better.

Thank you.