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Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

Comments by NRCM on Dragon Products Company New Source Review for Mercury

My name is Dylan Voorhees, Clean Energy Director for the Natural Resources Council of Maine. We appreciate the opportunity to comment on the Department of Environmental Protection's ("Department") draft findings and order for mercury emission limits for Dragon Products (license A-326-77-3-A.) NRCM opposes the proposed mercury emissions limit of 42 lbs/year because it could lead to a doubling, or more, in actual mercury emissions from the facility, a result which would be adverse to Maine's efforts to reduce mercury emissions and protect public health and natural resources.

The proposed change would be contrary to the intent of statutory limits on mercury. It would be contrary to the Mercury Action Plan adopted by Maine as part of the Conference of New England Governors and Eastern Canadian Premiers, the goal of which is the virtual elimination of anthropogenic mercury emissions.¹ The draft proposal would effectively waive any state limitation on mercury emissions at Dragon, leaving it with a federal "lowest common denominator" limit.

Mercury emissions remain a significant environmental and public health hazard in Maine. The impacts on mercury are well documented, as noted by the Department's own Mercury Reduction Report². These negative impacts include impacts to the nervous, respiratory and immune systems, particularly for children and developing fetuses. Because of this risk, and as a result of the legacy of mercury pollution, all of Maine's inland waters have a fish consumption advisory related to mercury.

The reality of mercury contamination in Maine hit home once again last month when a 7-mile stretch of the Penobscot River was shut down for lobster and clam harvesting due to significant

¹ Mercury Action Plan, New England Governors and Eastern Canadian Premiers, June 1998, p. 1.

² Maine Department of Environmental Protection "Mercury Reduction Report", March 2013, p. 4.

and hazardous levels of mercury contamination in shellfish from industrial pollution.³ A February 23 editorial from the Portland Press Herald put it succinctly:

“The notion that Maine’s lobsters could be unsafe to eat, or that Maine air and water might not be clean, could be devastating to those industries. Far from being bad for business, environmental regulation is essential for business to succeed, especially the kinds of businesses that Maine depends on... The next time we hear a politician complain about too much regulation, we should all remember this situation and reflect on how much trouble good regulation can avoid.”

The proposed increase in mercury emissions limits, compared to the basic statutory limit of 25 lbs/year and compared to actual emissions in 2011-2012, would not be “good regulation.”

According to the draft Findings, actual mercury emissions from Dragon for 2011-2012 were estimated using two different methods. Neither of those methods showed emissions exceeding 25 lbs/year (nor does a third method applied using 2007 data). This begs the question of why an alternative emissions limit should be set higher than the statutory limit of 25 lbs/year at this time, much less a limit 70% higher, of 42 lbs/year. We understand that production at Dragon could increase in the future, but that does not justify the proposed increase at this time.

The Department’s draft Findings of Fact clearly show that there are options for reducing mercury emissions below the status quo levels. All of these options have a cost, some estimated to be as low as \$39,152 per pound of controlled mercury. The draft order rejects these options primarily because they cost money. The cost of controlling pollution cannot be considered in isolation, or we would never chose to impose pollution control measures on sources. The cost of not limiting mercury emissions is harder to estimate, but the case of the Penobscot and potential broader adverse impacts on the lobster fishery, tourism and the Maine “brand” show this cost could dwarf the cost of controls.

In 2013, the Department recommended that the legislature change the law to specifically allow cement facilities to comply with federal mercury regulations and not with Maine’s lower limit. The legislature declined to adopt this recommendation, although it did make minor statutory changes proposed by the Department at the same time. We believe this gives further evidence that establishing an alternative limit 70% higher than the statutory limit simply because it would comply with federal limits (and because controlling pollution would be “costly”) is contrary to the intent of Maine lawmakers.

³ Portland Press Herald: February 18 (“Mercury levels close mouth of Maine river to lobster, crab harvesting”) and February 20 (“Closure to affect hundreds of Maine lobster, crab harvesters”)

Two control technologies identified and analyzed in the draft findings would reduce emissions at Dragon to just over 10 lbs/year (compared to estimated 2011-2012 emissions of roughly 13 lbs/year.)

Dragon's cement facility is the elephant in the room for mercury pollution in Maine. The next largest emitters (ecomaine and PERC) produce 8-10 and 3 lbs/yr respectively. Requiring Dragon to install control technologies such as activated carbon injection or wet scrubbers would be the equivalent of eliminating Maine's third largest point source for mercury. The draft order, on the other hand, would allow Dragon's emissions to at least double (and potentially increase seven fold) compared to 2011-2012 levels. That's the wrong direction for Maine, whether you look at the clear intention of Maine law or at the need to protect public health, natural resources and the economy.

Thank you for considering our comments.