

Notes from the Meeting of the
Environmental Council of the States (ECOS)
Cross-Media Committee (CMC)

at the **2009 ECOS Spring Meeting**

Monday, March 23, 2009

Hilton Old Town

Alexandria, Virginia

Compiled by Matthew Jones, ECOS Staff

This meeting was held in plenary as part of the 2009 ECOS Spring Meeting. The meeting was open to all Meeting attendees.

Welcoming Remarks and Announcements:

At approximately 8:30am Eastern time, CMC Chair, David Littell (Maine) brought the meeting to order and welcomed everyone present.

Next, Mr. Littell announced that he would postpone discussion of the draft Green Chemistry resolution until the end of the meeting, and invited guest speaker James J. Jones (Acting Assistance Administrator, US EPA Office of Prevention, Pesticides, and Toxic Substances) to begin his presentation.

Guest Speaker:

Mr. Jones offered a presentation with a slideshow with extensive content addressing a number of topics. Mr. Jones highlighted some of these topics in his speech. He began by mentioning that US EPA is aware of increased interest expressed on the part of environmental groups and some lawmakers for reforming the way the U.S. government manages chemicals under the Toxic Substances Control Act (TSCA). Sen. Lautenberg (D-NJ) has introduced the Kids Safe Chemicals Act. US EPA has taken no official position on this matter, but the agency will be looking to review priority chemicals to determine their safety standards vis-à-vis children. Administrator Lisa Jackson has announced that she wants the agency to put increased emphasis on protecting children.

Next, Mr. Jones mentioned that the Lead (Pb) Renovation Rule will be requiring contractors to obtain training and certification for renovating pre-1978 housing by April.

With regards to mercury, Mr. Jones noted that under the Obama administration's new leadership, the U.S. State Department, with assistance from US EPA, has moved quickly to reverse the U.S. position on international mercury. The U.S. change in position was a driving force at a recent United Nations meeting for China, India, and other countries to agree to develop a legally binding international treaty for reducing mercury from many sources within the next three years.

Mr. Jones also mentioned that US EPA has been working with the Quicksilver Caucus to explore ways to reduce use and release of mercury from thermometers. US EPA's Office of Pollution Prevention and Toxics (OPPT) is exploring a possible rulemaking that would reduce or eliminate use of mercury in various products, including switches, relays, flame sensors, button cell batteries, and other devices. Mr. Jones mentioned that his office is also exploring whether regulatory or other possible approaches may be warranted for controlling formaldehyde.

Mr. Jones mentioned that US EPA has shared its draft 2009- 2014 Pollution Prevention Strategic Plan with the CMC and other stakeholders for their comment. Comments are due March 31.

Lastly, Mr. Jones invited Betsy Shaw of his office to talk about the plans for the next State Innovations Symposium. Ms. Shaw said that the next symposium will be planned for 2010. Ms. Shaw mentioned that the last symposium successfully attracted over 500 attendees. Ms. Shaw noted that her office is putting together a planning committee and is looking for another state to act as host for the 2010 symposium.

Mr. Littell asked Mr. Jones if the potential TSCA rulemaking on mercury might include new standards for residential thermostats. Wendy Cleland-Hamnett (US EPA OPPTS) responded that the agency was considering this. Mr. Littell expressed that he was pleased to hear so, and noted that the State of Maine has banned installation of mercury-containing thermostats in homes.

Update on Emerging Contaminants Work Group Plans:

Next, Lucy Edmondson deferred to Laurie Burt (Commissioner, Massachusetts DEP) to speak to the next item on the agenda. Referring to a two-page handout, Ms. Burt provided an update on the plans of the ECOS Emerging Contaminants Work Group. The group seeks to:

- Develop pollution prevention strategies for nanomaterials nationwide. As part of this effort, members hope to collaborate with US EPA and U.S. Department of Defense officials in order to share information and strategize pollution prevention approaches.
- Develop a model for prioritizing emerging contaminants for further research/ state legislation/ agency action. The model will involve a plan for consideration of key criteria (inherent hazards, risk, presence, fate, and transport). This tool would be valuable in that it might put states in a more proactive stance to operate based on objective information instead of reacting to concerns expressed about emerging contaminants in the popular press. A starting point for developing this model is a table listing contaminants of emerging concern that committee members drafted based largely on the results of a 2006 ECOS survey.
- Compile information on the broader state priorities and strategies for addressing emerging contaminants, including nanomaterials.
- Identify state experiences in monitoring for emerging contaminants (if any) including use of sensors for program decision-making.
- Compile related information on several individual states into case studies.
- Develop recommendations for improved data collection (needs and principles).

Ms. Burt noted that US EPA has provided support for the states to conduct this work through a cooperative agreement with ECOS. Deliverables are due December 2009. Ms. Burt thanked US EPA for their support. Next, Ms. Burt asked ECOS members for their thoughts regarding this effort.

Dick Pedersen (Oregon) and Sue Bangert (Wisconsin) voiced support for the effort, and expressed special interest in the prioritization of emerging contaminants.

Update on Quicksilver Caucus:

Next, Mark McDermid (Wisconsin/ Lead ECOS Representative to the Quicksilver Caucus) gave an update on the Quicksilver Caucus' work plans. Recently, the group has worked in the following areas:

- Following implementation of the Mercury Export Ban Act of 2008
- Advocating support for stronger international action on mercury and participating in international partnerships on mercury pollution prevention/ reduction
- Published a white paper on best management practices for dental amalgam mercury
- Provided an informational webinar on the use of separators for managing dental amalgam mercury to an audience largely consisting of publicly-owned treatment works (POTW) officials
- Worked with US EPA in an attempt to further engage manufacturers in pollution prevention efforts regarding mercury-containing thermostats
- Participated in – and worked to evaluate the progress of – the National Vehicle Mercury Switch Recovery Program (NVMSRP)

With some assistance from Mary Blakeslee (ECOS Consultant), Mr. McDermid explained that the Quicksilver Caucus recently published an evaluation of the NVMSRP (staff distributed copies of the report to members). The January 2009 report indicates that the program has not been as successful as had been hoped. The report is available on the Quicksilver Caucus webpage.

Mr. McDermid noted a number of areas the Caucus seeks to focus on in the future. The group is drafting a two-year work plan to submit to US EPA as part of a grant application to support this work. The group is seeking to add compact fluorescent lights (CFLs) to its work scope; there is concern that mercury contained in CFLs is being released into the environment. The Caucus also wants to continue following implementation of the mercury export ban as well as the United Nations' development of an international treaty on mercury. The Caucus also seeks to continue focusing on many of the same issues it has worked on in past years, including air emissions (from coal-fired power plants and municipal waste combustors), dental amalgam, vehicle switches, thermostats and thermometers.

Resolutions:

Next, the ECOS membership considered a number of resolutions. With the assistance of Ms. Blakeslee, Mr. McDermid presented the details of two proposed resolutions pertaining to mercury:

- Mercury Reduction, Stewardship and Retirement
- Endorsement of the National Mercury Switch Removal Program Memorandum of Agreement that Reduces Mercury in the Environment and Provides Flexibility to the States

Some discussion followed. Upon a motion and a second, the ECOS membership adopted both resolutions in turn.

Next, Mr. Littell introduced another resolution:

- Clarification of CERCLA Sovereign Immunity Waiver for Federal Facilities

Some discussion followed. Upon a motion and a second, the ECOS membership adopted the resolution as proposed.

Pollution Prevention:

Before moving on to the next agenda topic, Mr. Littell thanked members for providing the Committee with input as they prepare comments for US EPA's Pollution Prevention Plan. Mr. Littell also thanked representatives of US EPA for inviting the Committee to provide comments. Mr. Littell indicated that the Committee would be providing comments to US EPA before the end of March.

Munitions:

Next, Chairman Littell invited Jennifer Roberts (Alaska) to discuss the next item on the agenda. Ms. Roberts noted that an old ECOS resolution supporting the states' involvement in a munitions response forum was set to expire. The Committee recently determined to allow the old resolution to expire, but many members wanted to continue following the munitions issue. In particular, Ms. Roberts explained, changes in stated policy by the U.S. Department of Defense excluded Defense-State Memorandum of Agreement (DSMOA) funds from being used to support state involvement in the munitions response forum. However, recent funding support provided to ECOS' Interstate Technology and Regulatory Council (ITRC) by US EPA promises to revive the munitions response forum. ECOS and ITRC are working with the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) to reorganize the group. Upon the recommendation of ECOS members, Ms. Roberts has drafted a letter to states explaining the history behind the forum and the recent support provided by US EPA to revive the group (staff distributed a draft of the letter to members). The draft letter seeks to recruit more state participation in the new munitions response forum. Ms. Roberts asked ECOS members for their endorsement to send the letter to all states. Upon a motion and a second, the members expressed support for this action without objection.

Ms. Roberts also described another idea members wish to pursue. Despite the old ECOS munitions resolution expiring, many ECOS members do not want this occurrence to indicate a lack of interest in the munitions issue or a lack of support for continued dialogue on the issue. Therefore, members wish to draft a letter from the Cross-Media Committee addressed to the U.S. Department of Defense and US EPA expressing continued interest in munitions issues. Upon a motion and a second, the members expressed support for this action without objection.

Green Chemistry:

As a last order of business, Chairman Littell brought members' attention to a resolution drafted regarding the topic of Green Chemistry (staff distributed a copy of the draft resolution). Mr. Littell noted that the draft was being circulated in an effort to give members advanced notice of the resolution, and to gauge members' reaction. Mr. Littell indicated that Committee members would be working to prepare the resolution for adoption consideration at the ECOS Annual

Meeting in September. Mr. Littell encouraged members to share their thoughts either at the current meeting or afterwards.

Cindy Tuck (California) noted that the California EPA has released some information on Green Chemistry that members might find interesting.

Adjournment:

Mr. Littell thanked all attendees for their participation. This concluded the meeting of the Cross-Media Committee. The meeting adjourned at approximately 10:15am Eastern.