

QUICKSILVER CAUCUS

The Association of State Drinking Water Administrators (ASDWA);
The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA);
The Association of State and Territorial Solid Waste Management Officials (ASTSWMO);
The Environmental Council of the States (ECOS);
The National Association of Clean Air Agencies (NACAA);
The National Pollution Prevention Roundtable (NPPR)

Water Docket
Environmental Protection Agency
Mailcode: 2822T
1200 Pennsylvania Ave., NW
Washington DC 20460

March 31, 2010

Attn: Docket ID No. EPA-HQ-OW-2008-0517

To Whom It May Concern:

The Quicksilver Caucus (QSC) provides the comments below on US EPA's annual review of effluent guidelines [RIN 2040-AF06] as published in the Federal Register Vol. 74, No. 247, December 28, 2009 (74 FR 68599) (FRLO-9095-5).

The QSC is a coalition of State associations formed to address and resolve health and environmental problems resulting from the release of mercury to the environment. The membership of the QSC includes the Environmental Council of the States, The Association of State and Territorial Solid Waste Management Officials, The National Association of Clean Air Agencies, The Association of State and Interstate Water Pollution Control Administrators, The Association of State Drinking Water Administrators, and the National Pollution Prevention Roundtable.

Section VII. EPA's Evaluation of Categories of Indirect Dischargers Without Categorical Pretreatment Standards to Identify Potential New Categories for Pretreatment Standards, A. EPA's Evaluation of Pass Through and Interference of Toxic and Non-Conventional Pollutants Discharged to POTWs, page 68610.

"As discussed in the final 2008 Plan EPA is again not identifying dental facilities for an effluent guidelines rulemaking in this notice at this time (September 15, 2008; 73 FR 53233.)"

QSC Comment: QSC members believe that US EPA should pursue effluent guidelines rulemaking for dental facilities that focus on BMP use and amalgam separators in the sector. We do not agree with the US EPA decision in 2008, when it did not identify the dental sector for effluent guidelines rulemaking because US EPA gives *"lower priority to industrial categories demonstrating significant progress through voluntary efforts to reduce hazard to human health or the environment...particularly where such reductions are achieved by a significant majority of individual facilities in the industry"*. (Federal Register Vol. 73, No. 179, page 53234, September 15, 2008).

In a review of various dental mercury amalgam programs around the US, QSC findings indicate that voluntary efforts to reduce hazards associated with dental mercury amalgam have not resulted in reductions by a majority of dental offices. In April 2008, the QSC released a white paper on dental mercury amalgam management: (http://www.ecos.org/files/3260_file_Final_Twice_Corrected_Dental_Amalgam_White_Paper_April_2008.pdf). In the whitepaper, the QSC compared the effectiveness of voluntary dental mercury amalgam management program to those with mandatory components. It found that dental amalgam separator installation rates were low unless there was a mandatory component. QSC wrote in the whitepaper "When considering whether separator installation should be voluntary or mandatory, program managers should consider information published in the Fall 2007 edition of the *ADA Professional Product Review*¹⁵ where it was reported that a 'survey of [ADA Clinical Evaluator Panel] members shows that relatively few panel members own an amalgam separator or plan to purchase one'¹⁶."

POTWs in the U.S. have determined that dental clinics contribute approximately half of the mercury loadings to wastewater treatment plants. Therefore, dental clinics are a significant source. Efforts in Maine, Massachusetts, Minnesota, New York, Washington, and elsewhere demonstrate what the sector is fully capable of doing. An example of reductions from the QSC's Case Studies of Five Dental Mercury Amalgam Separator Programs: (http://www.ecos.org/files/3193_file_case_studies_dental_amalgam_paper_052808.pdf%20) is Metropolitan

Council Environmental Services, a POTW in the Minneapolis/St. Paul metropolitan area of Minnesota. MCES has cut influent levels in half now that its dental clinics have installed amalgam separators. Another example is the Massachusetts Water Resources Authority (MWRA), which services about 2.5 million people and operates the largest wastewater treatment plant (WWTP) in Massachusetts. Mercury levels in MWRA sludge decreased by about 48% when amalgam separator use was increasing to over 80%.

US EPA stated in the above-referenced September 15, 2008, Federal Register on page 53234, that it “*will continue to examine the percentage of dentists using amalgam separators and their effectiveness at recovering dental amalgam and reducing mercury discharges to POTWs*” and “*EPA will examine whether a significant majority of dentists are utilizing amalgam separators*”. The results of this examination will then be used to determine whether effluent guidelines rulemaking is necessary. The voluntary program under the December 2008 Memorandum of Understanding (MOU) between US EPA, the American Dental Association (ADA) and the National Association of Clean Water Agencies (NACWA) “*...is intended to be a vehicle for conducting such an examination*” (Page 3 of the MOU). As a group that represents state environmental interests, the QSC wants to emphasize the critical role that states play in controlling mercury inputs into our nation’s air and water. States and EPA are co-regulators, however the MOU was not designed with that important relationship in mind.

Furthermore, under the MOU the ADA was to establish by July 2009 a baseline from which progress can be measured and interim goals were to be set by January 2010. To the best of the QSC’s knowledge these have not been established. A survey conducted by ADA on amalgam separator use also indicated a relatively low overall rate of usage which appears to be inconsistent with a finding of “significant progress through voluntary efforts.” .

In conclusion, QSC strongly recommends that US EPA pursue effluent guidelines rulemaking for dental facilities. Any federal action taken needs to be sure to protect the ability of the states to go beyond federal regulations to continue to demonstrate what is possible and develop approaches to achieve continual improvement.

The QSC thanks the US EPA for this opportunity to comment on the Notice of Availability of Preliminary 2010 Effluent Guidelines Program Plan.

Sincerely,



Mark McDermid
Quicksilver Caucus, Lead ECOS Representative

Director, Bureau of Cooperative Environmental Assistance
Wisconsin Department of Natural Resources
101 S. Webster Street, P.O. Box 7921
Madison, Wisconsin 53707
Telephone: 608-267-3125
E-mail: mark.mcdermid@wisconsin.gov

The Quicksilver Caucus is a coalition of state environmental association leaders working to reduce mercury in the environment. More information about the Caucus is available at:

http://www.ecos.org/section/committees/cross_media/quick_silver