



THE
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COUNCIL OF
THE STATES

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PAST PRESIDENT

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QUICKSILVER CAUCUS

The Association of Clean Water Administrators (ACWA);
The Association of State Drinking Water Administrators (ASDWA);
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)

Tuesday, Jan. 14, 2014

Gina McCarthy
Administrator
U.S. Environmental Protection Agency
Mail Code: 1101A – Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Sally Ericsson
Associate Director
Natural Resources, Energy and Science
White House Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

(via e-mail)

Dear Administrator McCarthy and Associate Director Ericsson:

We are writing to you on behalf of the Environmental Council of the States (ECOS) and the Quicksilver Caucus— a coalition of state, local, and territorial environmental leaders working to reduce toxic mercury pollution.

On Sept. 17, 2013, the state environmental agency directors issued a policy resolution identifying mercury pollution as a key issue that remains a priority public health concern (see appended).

We feel that an important opportunity is before us to make significant progress in addressing this problem. We have a series of items we would like to work on with the Administration. We think these items will further President Obama's aim of protecting children from the harmful effects of mercury pollution which he outlined in his 2012 State of the Union address. We think that these items are also aligned with Administrator McCarthy's seven priority themes for guiding future EPA action.

We propose that the Administration work with us to pursue the following items:

- EPA should move forward with its plan to issue a rule requiring installation of mercury amalgam separators in dental offices. We also want EPA to help convene a national amalgam separator review committee to ease program implementation costs for state and local governments. The benefits of a mandatory national separator program would provide significant public health protections. Less mercury in the environment means that less mercury will bioaccumulate in the fish and seafood eaten by the American people. State environmental leaders stand ready to help EPA ensure that a federal amalgam separator program would meet with success.
- EPA should continue working with us to coordinate development and implementation of state and regional total maximum daily load (TMDL) plans for reducing mercury in tandem with national and global mercury reductions in order to protect water quality.
- The Administration should continue to work with states to finalize implementation of the Mercury Export Ban Act of 2008— legislation which was championed by President Obama when he was Senator. With support from the Administration and Congress, the

U.S. Dept. of Energy should finalize site selection and establish a national storage facility for excess mercury as required by the law, and EPA should work with states to investigate the law's impact on mercury recycling programs.

- Federal agencies should work with their state counterparts to continue pursuing reductions in mercury content in consumer products and explore opportunities to lead by example and steer state and federal procurement guidelines away from the purchasing of mercury-containing products.
- State mercury experts stand ready to help Administration officials as you pursue the reductions in global mercury pollution required by the new international treaty ratified in October at the U.N. convention in Minimata, Japan.

For the past 12 years, EPA has provided the resources needed to support a robust state-federal collaboration on mercury pollution reduction. These funds have afforded state leaders the opportunity to explore new methods for reducing mercury through the Quicksilver Caucus and to coordinate this work with federal leaders in a more efficient and effective manner.

ECOS recently submitted a proposal requesting continued EPA support for this priority program. We think your support will be critical for ensuring continued progress in this field. We urge the Administration to seek and provide the financial resources needed to support this program and advance these important initiatives. Please contact Matthew Jones of ECOS at 202-266-4925 if you have any questions about this letter.

Sincerely,



Dick Pedersen
ECOS President
Director
Oregon Dept of Environmental Quality



Justin G. Johnson
Chair, ECOS Cross-Media Committee
Deputy Secretary
Vermont Agency of Natural Resources



J. Ryan Benefield, P.E. (AR)
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Shellie Chard-McClary
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Water Quality Division Director
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Alexandra Dapolito Dunn
Executive Director & General Counsel
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James D. Taft
ASDWA Lead, Quicksilver Caucus
Executive Director, Association of State Drinking Water Administrators

Cc: Bob Perciasepe, Deputy Administrator, EPA
Jim Jones, Asst Administrator, EPA/OCSP
Lek Kadeli, Acting Asst Administrator, EPA/ORD
Jane Nishida, Acting Asst Administrator, EPA/OITA
Nancy Stoner, Acting Asst Administrator, EPA/OW
Senate Appropriations Committee

Ernest Moniz, Secretary of Energy, DOE
Mathy Stanislaus, Asst Administrator, EPA/OSWER
Janet McCabe, Acting Asst Administrator, EPA/OAR
Mark Rupp, Deputy Assoc Administrator, EPA/OCIR
Janet Irwin, Deputy Assoc Director, OMB/Natural Resources
House Appropriations Committee

Appendix 1: ECOS Resolution #07-1 “Implementing a National Vision for Mercury”



Resolution Number 07-1
Approved March 20, 2007
Alexandria, Virginia

Revised March 24, 2010
Sausalito, California

Renewed March 6, 2013
Scottsdale, Arizona

Revised September 17, 2013
Arlington, Virginia

As certified by
R. Steven Brown
Executive Director

IMPLEMENTING A NATIONAL VISION FOR MERCURY

WHEREAS, mercury is a known potent neurotoxin; and

WHEREAS, the primary pathway of concern for mercury from a public health standpoint is consumption of mercury-contaminated fish by women of child-bearing age; and

WHEREAS, although data from the U.S. Centers for Disease Control demonstrates that reductions in mercury blood levels in women have occurred, greater than 200,000 newborns each year are exposed to mercury in the United States above the U.S. EPA recommended safe level; and

WHEREAS, depending on the level of prenatal exposure, mercury can cause neurodevelopmental effects in children; and

WHEREAS, mercury entering water bodies directly from runoff or from air deposition can be transformed into methylmercury, a highly toxic form that bioaccumulates, or builds up, in fish and other animals to levels that create a continuing and unacceptable environmental and public health risk; and

WHEREAS, natural and anthropogenic releases of mercury to the environment have contaminated fresh and saltwater fisheries to such an extent that all 50 states, one U.S. territory, and at least three tribes have issued health advisories for many water bodies warning of the dangers of consuming fish caught in these waters due to elevated concentrations of mercury; and

WHEREAS, mercury pollution is a global, national, and regional issue because it can be transported by air currents across political and geographic boundaries; and

WHEREAS, while the states, tribes, and U.S. EPA are studying, monitoring, and reducing the use of mercury in products and processes and the discharge of mercury to the environment, continuing state-federal coordination and collaboration is required to maximize efficiency and most effectively respond to and reduce the threat mercury poses to humans and wildlife in the United States and throughout the world; and

WHEREAS, mercury levels in certain types of fish are likely to remain elevated for an extended period of time; and

WHEREAS, some industries that use, emit, or discharge mercury are important to the health, safety, and economies of the United States and other countries, and some of these industries may currently have limited cost-effective, technically-feasible options to reduce their mercury use, emissions, or discharges; and

WHEREAS, Asia contributes almost half of the global anthropogenic mercury emissions, including emissions from artisanal small-scale gold mining and from burning coal; and

WHEREAS, based on U.S. EPA data, mercury emissions in the United States have been substantially reduced over the past two decades, and based on data from the United Nations Environment Programme (UNEP), international emissions have increased substantially; and

WHEREAS, significant mercury sources continue to exist in the United States; and

WHEREAS, the United States and other negotiating nations agreed on January 19, 2013, to the terms of a global mercury agreement, termed the Minamata Convention, which will be binding upon its ratification and which lays the foundations for global actions to prevent mercury emissions and releases under UNEP; and

WHEREAS, U.S. EPA's Mercury and Air Toxics Standards (MATS) rule is projected to reduce mercury emissions from electric generating sources by 90% from 2010 emissions of 29 tons; and

WHEREAS, mercury from dental amalgam can be the single largest source of mercury for publicly owned treatment works and can be a water quality discharge concern and a source of mercury in air when dental amalgam-containing sludge is incinerated or land applied.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES:

Recognizes efforts made by U.S. EPA, the U.S. State Department, and the states to prioritize and focus on the mercury problem, as well as U.S. EPA's ongoing efforts to support and collaborate with the states on this issue through ECOS and the Quicksilver Caucus;

Calls on the President of the United States and the U.S. Congress to continue to pursue further reductions in mercury releases at the national level as necessary to protect public health and the environment, and to pursue substantial mercury reductions at the international level;

Requests that U.S. EPA continue to work with states and tribes as partners, through the Quicksilver Caucus and through other venues, as well as with industry, environmental, and other groups, to identify priorities for action and to develop and implement effective strategies and initiatives to achieve sufficient reductions in mercury pollution necessary to protect public health and the environment, and in unnecessary uses of mercury, and to maximize proper management and retirement of end-of-life mercury-containing products;

Requests that the federal government continue to work cooperatively with the states and industry to collect comprehensive data on mercury uses and pollution sources so that short and long-term trends can be tracked, as well as essential uses, and those uses that can be eliminated, are identified;

Requests that the federal government, in collaboration with the states, industry, and other stakeholders, support research on alternatives to mercury use and on effective pollution controls, and ensure that recycled mercury and mercury captured by pollution controls is properly managed so that mercury releases to the environment are prevented whenever possible or reduced where appropriate, and collection and sequestration activities are performed to the maximum extent possible;

Requests U.S. EPA to expeditiously finalize and implement an Effluent Guideline for the dental sector requiring best management practices, including effective amalgam separators that reduce mercury discharges to protect human health and the environment;

Continues to support the federal Mercury Export Ban Act (MEBA) of 2008; commends the work that U.S. EPA and the U.S. Department of Energy (DOE) have undertaken with the states; requests U.S. EPA and DOE continue to work with the states to ensure the safety of long-term storage plans for mercury and take all appropriate measures to prevent introduction of excess mercury supplies into the global marketplace; and requests that DOE expeditiously and carefully implement its obligations to safely store excess mercury under MEBA;

Requests U.S. EPA work with ECOS and the Quicksilver Caucus to implement comprehensive strategic approaches that identify goals, principles, and priorities for integrating state and federal actions, present and planned, to reduce mercury in the environment, and to work with the states as needed to achieve the implementation of these efforts;

Requests U.S. EPA take actions, as may be necessary and appropriate to obtain mercury emission reductions, consistent with the provisions, intent, and goals of the CAA, CWA, RCRA, and TSCA in as early a timeframe as possible for the protection of both humans and wildlife;

Requests that U.S. EPA assist states in the activities they will be called upon to implement under the recently adopted federal regulations to address emissions of mercury from electric generating sources;

Requests that U.S. EPA reaffirm that federal programs will not preempt the adoption of existing or new state or local mercury programs that are as stringent as or more stringent than that of the federal government;

Requests the President of the United States and the U.S. Congress to improve federal and state capacity for mercury-related action, including but not limited to long-term mercury monitoring that meets national needs to document impacts and results, pollution prevention programs, and health advisory efforts with resources to support these initiatives;

Applauds U.S. leadership in efforts to address mercury on a global scale, culminating in the Minamata Convention, and urges the federal government to continue to collaborate with, and use the expertise of, the states to advance global mercury reduction efforts; to identify and develop necessary tools and resources to enable the federal government and the states to effectively implement these efforts; and provide continued grant support to ECOS for the work of the Quicksilver Caucus;

Requests that U.S. EPA and the U.S. Food and Drug Administration (FDA) continue to work with the states to support and enhance fish consumption advisories to better inform women of child-bearing age how to best obtain the health benefits of fish consumption while minimizing exposures to mercury;

Encourages the President of the United States and the U.S. Congress to ensure that any mercury reduction program is scientifically and technically sound, cost-effective, and designed to ensure flexibility in implementation; and

Will transmit copies of this resolution to the U.S. EPA Administrator, the DOE Senior Advisor for Environmental Management, the U.S. State Department, the Director of the Office of Management and Budget, the President of the United States, and the U.S. Congress.



Resolution 11-3
Approved September 26, 2011
Indianapolis, Indiana

As certified by
R. Steven Brown
Executive Director

URGING CREATION OF A DENTAL AMALGAM SEPARATOR NATIONAL REVIEW COMMITTEE

WHEREAS, mercury is a persistent, bioaccumulative, and toxic substance; and

WHEREAS, all 50 states have mercury-related fish consumption advisories; and

WHEREAS, mercury is used in dental restorative materials; and

WHEREAS, mercury from dental discharges is often the single largest source of mercury for publicly owned treatment works (POTWs) and results in releases to the water through wastewater effluent, the air when sludge is incinerated, and to the land when sludge is land-applied; and

WHEREAS, a study commissioned by the American Dental Association (ADA) estimated that 6.5 tons of mercury to POTWs per year comes from dental offices, which equates to 53 percent of the loading; and

WHEREAS, U.S. EPA estimates there are approximately 160,000 dentists working in over 120,000 dental offices that use or remove amalgam in the United States, many of whom discharge their wastewater exclusively to POTWs; and

WHEREAS, in March 2010, the Environmental Council of the States (ECOS) urged U.S. EPA in Resolution 07-1 (renewed March 2010) to include dental facilities under the Health Care Sector for rulemaking in its Effluent Guidelines Program Plan and require adoption of best management practices and amalgam separators that reduce mercury discharges to protect the environment; and

WHEREAS, in October 2010, U.S. EPA informed ECOS that it would initiate an effluent guideline rulemaking for dental facilities to reduce discharges of mercury to the environment, with a plan for finalizing a rule in 2012; and

WHEREAS, the accepted methodology for testing the overall efficiency and performance of amalgam separators is specified in the International Organization for Standardization’s (ISO) Standard 11143 Dentistry – Amalgam Separators (ISO 11143); and

WHEREAS, the ADA recommends the installation of ISO 11143 compliant amalgam separators in its principles that were adopted for the development of mandatory national pretreatment standards for dental office wastewater; and

WHEREAS, amalgam separators can remove up to 99 percent of mercury solids from dental office discharges; and

WHEREAS, the accepted international process for ensuring that amalgam separator equipment performs in the real world as well as measured against the ISO standard, is known as the “Conformity Assessment Process,” which includes ISO testing, certification, and accreditation of independent laboratories and certification bodies, and is a voluntary process; and

WHEREAS, states and municipalities with regulations addressing the dental sector now gather and evaluate amalgam separator information separately at significant effort, expense, duplication of effort, and potential for inconsistency; and

WHEREAS, states and municipalities face daunting budget constraints that necessitate greater efficiencies in data collection, review, and dissemination.

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS urges U.S. EPA to ensure consistent and effective implementation of the effluent guidelines so as to most effectively use the limited resources of federal, state, and local governments, and avoid duplication of effort.

ECOS urges U.S. EPA to support mechanisms that ensure that reviews of amalgam separator ISO testing, certification, and accreditation, are completed efficiently and information is effectively shared.

ECOS urges U.S. EPA to support and take a leading role in convening a volunteer National Amalgam Separator Review Committee with POTW, city, county, state, and national representatives for the purpose of evaluating and sharing amalgam separator data, so as to ease the burden on state and local governments implementing the effluent guideline for dental facilities. This Review Committee would serve as the centralized point-of-contact for separator manufacturers to submit test reports and certifications for review and should be charged with: determining appropriate scientific criteria for evaluating performance data; reviewing test reports and certificates; identifying data gaps and deficiencies; and providing a listing of amalgam separator specifications in a format that is easily accessible for regulators and dentists.

Copies of this resolution will be transmitted to the Administrator of U.S. EPA, the Director of the U.S. Office of Management and Budget, the President of the United States, and the U.S. Congress.