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Peter Silva
Assistant Administrator, Office of Water
U.S. Environmental Protection Agency
Ariel Rios Building - Mail Code 4101M
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Thursday, Aug. 19, 2010

[Via E-mail]

Dear Assistant Administrator Silva:

It has come to our attention that a decision regarding EPA's Effluent Guidelines will be made over the coming weeks. We wanted to make sure you were aware of the ECOS position.

This past spring, the state environmental commissioners voted to endorse Revised Resolution # 07-1 which states that "ECOS urges U.S. EPA to include dental facilities under the Health Care Sector for rulemaking in its Effluent Guidelines Program Plan and require adoption of best management practices that reduce mercury discharges to protect the environment." As is widely accepted, best management practices includes the proper installation and use of amalgam separator machinery by dentists.

The ECOS resolution also notes that "mercury from dental amalgam can be the single largest source of mercury for [POTWs] and is a water quality discharge concern and a source of air pollution when sludge is incinerated or land applied."

In short, current voluntary programming being conducted under the auspices of the MOU between EPA and the American Dental Association is not solely adequate for addressing this problem. Federal regulation to require the use of amalgam separators is the recommended solution.

Please find a copy of our resolution attached. We submitted these comments to the Water Docket on March 31 and articulated them to the House Subcommittee on Domestic Policy on May 26. We hope you will consider the States' position when a decision is rendered on this issue. Thank you.

Sincerely,

R. Steven Brown
Executive Director
Environmental Council of the States (ECOS)



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

Revised March 24, 2010
Sausalito, California

As certified by
R. Steven Brown
Executive Director

IMPLEMENTING A NATIONAL VISION FOR MERCURY

WHEREAS, mercury is a known potent neurotoxin, which is particularly damaging to the development of a human fetus, infant and young child; and

WHEREAS, the National Research Council's July 2000 report estimated that each year over 60,000 children may be born in the United States with permanent, irreversible neurological problems due to mercury exposure from the consumption of fish, and data from the U.S. Centers for Disease Control demonstrate that hundreds of thousands of newborns each year are being exposed to mercury above the U.S. EPA recommended safe level; 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, 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 three tribes have issued health advisories warning of the dangers of consuming fish caught in their waters due to elevated concentrations of mercury; and

WHEREAS, mercury pollution is both a local issue due to the creation of near-by hot spots and a global issue because it is transported by air currents across political and geographic boundaries, and mercury pollution and exports from the United States return to this country by atmospheric transport, through contaminated fish, and in manufactured products; and

WHEREAS, while the States 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, a more comprehensive state-federal effort is required to maximize efficiency and eliminate the threat to humans and wildlife in the United States and throughout the globe; 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, coal-burning industrial and utility boilers represent the largest source of anthropogenic mercury emissions in the United States, and the Clean Air Mercury Rule has been vacated; and

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

NOW, THEREFORE, BE IT RESOLVED THAT:

ECOS recognizes recent efforts made by U.S. EPA under Administrator Lisa Jackson to prioritize and refocus 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.

ECOS calls on the President of the United States and the U.S. Congress to continue to pursue substantial reductions in mercury releases into the environment at the national and international levels.

ECOS 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 substantial reductions in mercury pollution, in unnecessary uses of mercury, and to maximize proper management and retirement of end-of-life mercury-containing products.

ECOS 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, and essential uses, and those uses that can be eliminated are identified.

ECOS 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, and collection and sequestration activities are performed to the maximum extent possible.

ECOS urges U.S. EPA to include dental facilities under the Health Care Sector for rulemaking in its Effluent Guidelines Program Plan and require adoption of best management practices that reduce mercury discharges to protect the environment.

ECOS applauds the passage of the federal Mercury Export Ban Act of 2008, which will ban export of elemental mercury and will require evaluation of whether the export of other forms of mercury needs to be addressed as well. ECOS also commends the work that U.S. EPA and the U.S. Department of Energy have undertaken with the States as work on the implementation of the law progresses.

ECOS urges the federal government and other interested and affected parties to continue to work with States to ensure the safety of long term storage plans for mercury in excess of essential needs; take all appropriate measures to prevent introduction of excess mercury supplies into the global marketplace; and exercise leadership in appropriate international forums to work toward substantial global reductions in mercury production, uses, and releases.

ECOS urges U.S. EPA to work with ECOS and the Quicksilver Caucus to develop a comprehensive strategic approach that identifies goals, principles and priorities for action for integrating state and federal actions, present and planned, for reducing mercury in the environment, and to work as expeditiously as possible with the States to achieve the implementation of these efforts.

ECOS urges U.S. EPA to take further necessary and appropriate actions to obtain aggressive 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.

ECOS requests that U.S. EPA reaffirm that the 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.

ECOS urges the President of the United States and the U.S. Congress to expand federal and state capacity for mercury-related action, including but not limited to environmental monitoring, pollution prevention programs, and health advisory efforts with resources to support the initiatives and additional resources to support the monitoring to document impacts and results. ECOS supports congressional action that would fund a comprehensive, long-term mercury monitoring program that meets national monitoring needs.

ECOS applauds U.S. leadership in efforts to address mercury on a global scale and urges the federal government to continue to work in collaboration with the States towards a binding international agreement that will achieve reductions in global sources of mercury pollution necessary to address mercury deposition in our states, and to identify and develop necessary tools and resources to enable the federal government and the States to effectively implement any such agreement.

ECOS 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.

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