



Resolution Number 18-3
Approved August 30, 2018
Stowe, Vermont

Renewed September 16, 2021
Via Zoom Meeting

As certified by
Donald Welsh
Executive Director

ADDRESSING MERCURY

WHEREAS, state environmental agencies have recognized mercury as a risk to human health and the environment because it is a persistent, bio-accumulative neurotoxin; 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 fish consumption health advisories for many water bodies; and

WHEREAS, many states have mercury reduction and collection programs and laws designed to reduce unnecessary uses of mercury and limit mercury releases to the environment; and

WHEREAS, the States, through the Quicksilver Caucus (QSC), have worked in partnership with U.S. EPA to address sources of mercury pollution, mercury-added products, the management of excess commodity mercury in the U.S., and international mercury reduction efforts; and

WHEREAS, mercury-containing lamps, in spite of the transition to LED, continue to be a large category of US mercury product sales and represent one of the largest US reservoirs of mercury in use where proper end of life management can prevent mercury release to the environment; and

WHEREAS, the Mercury Export Ban Act (MEBA), signed into law in 2008, established an integrated mercury export prohibition and essential use exemption process in the Toxic Substances Control Act (TSCA), and the 2016 Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg) amended certain MEBA provisions, establishing revised deadlines for the U.S. Department of Energy (U.S. DOE) to establish a national facility to store excess commodity mercury; and

WHEREAS, U.S. DOE has not yet established a facility for the long-term management and storage of excess commodity mercury; and

WHEREAS, delays in the completion of the MEBA mercury storage facility have necessitated the interim transport, storage, and management of mercury at other sites, with increased costs due to multiple packaging, storage, and shipping, and possible oversight and management costs to the states; and

WHEREAS, DOE is responsible under MEBA and TSCA for siting and operation of a long term mercury repository and DOE has not met deadlines for siting and operating this facility, and increasing quantities of mercury are being held in temporary facilities; and

WHEREAS, in June 2017, U.S. EPA promulgated Effluent Guideline pretreatment standards to reduce discharges of mercury from dental offices into publicly-owned treatment works (POTWs), largely through the use of dental amalgam separators meeting certain performance criteria; and

WHEREAS, Lautenberg included provisions for a comprehensive national mercury inventory and reporting requirements under Section 8(b) to help inform domestic and international mercury reduction efforts and obligations; and

WHEREAS, Lautenberg requires U.S. EPA to establish a mercury reporting system in cooperation with the Interstate Mercury Education and Reduction Clearinghouse (IMERC) reporting system, which is public and transparent, for the purpose of establishing a complete and accurate triennial US mercury inventory that can be used by U.S. EPA and others for ongoing mercury control, reduction, and elimination programs; and

WHEREAS, U.S. EPA's mercury reporting rule was overturned and is to be revised to incorporate the court's decision and whereas U.S. EPA has not publicly released data from the first mercury reporting period.

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

Requests that the federal government support research on alternatives to mercury use and 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 or reduced, and collection and sequestration activities are performed to the maximum extent possible;

Requests that U.S. EPA continue strong and visible support for federal and state regulatory and non-regulatory programs to promote and ensure proper management of mercury lamps at end of life to minimize mercury release to the environment;

Requests that U.S. EPA work with the states to minimize potential preemption of effective state or local mercury reduction programs under Lautenberg;

Requests that federal agencies responsible for implementing MEBA continue to consult with the states in the implementation of the Act;

Requests that DOE expedite siting and operation of the MEBA mercury storage facility and ensure its safety in full consultation with all state and local governments that are potential host sites for the repository, in addition to all parties currently hosting temporary storage facilities;

Requests that the federal government ensure the safety of any interim transport and storage of excess commodity mercury pending completion of the MEBA storage facility, and cover any state planning, oversight, and/or implementation expenses that may be incurred;

Commends U.S. EPA for finalizing an Effluent Guideline rule for the dental sector and requests, as originally communicated in a letter from ECOS and the Quicksilver Caucus on January 14, 2014, that the U.S. EPA help convene a national amalgam separator review committee to assess separator effectiveness and compliance to ease ongoing state and local government implementation of the Effluent Guideline and to ensure that there is independent and objective verification of separator performance testing and certification against the current US separator performance standard established by the American National Standards Institute (ANSI) and the American Dental Association (ADA);

Requests U.S. EPA expedite the promulgation of a revised reporting rule implementing the court decision regarding its' mercury reporting rule and that U.S. EPA publish all mercury reporting information received under Lautenberg, so that all interested parties have complete, transparent and accurate data to inform decisions to appropriately control and eliminate mercury uses and releases; and

Strongly encourages the federal government to provide resources, policies, and regulations sufficient to effectively implement and assess results of the international mercury partnerships and the Minamata Convention.