



Mercury Policy Project/Tides Center

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May 13, 2010

The Honorable Dennis J. Kucinich, Chairman
Subcommittee on Domestic Policy
Committee on Oversight and Government Reform
Washington, D.C. 20151

Dear Mr. Chairman,

I greatly appreciate the opportunity to testify at the Subcommittee on Domestic Policy hearing on reducing dental mercury pollution on May 26, 2010. Thanks to your leadership on this important issue, this is the third time in four years that the Subcommittee has sought to highlight this important source of mercury pollution for reduction. The aim of this letter is twofold:

- First, to clarify for the record statements made by a representative of U.S. EPA in a recent letter to you regarding the “stakeholder” role of the Mercury Policy Project (MPP) in relation to the Environmental Protection Agency’s (EPA’s) memorandum of understanding (MOU) with the American Dental Association (ADA) on dental mercury reduction, and
- Second, to propose a path forward that would foster more active participation in the decision making process by environmental groups, state officials, etc. in collectively engaging directly with EPA to generate significant dental mercury reductions in a more timely manner.

In an April 5, 2010 letter to you from Arvin Ganesan, Deputy Associate Administrator for Congressional Affairs at EPA, the following statements were made regarding MPP in relation to EPA’s MOU:

“We also expanded our coordination with stakeholders to include the Quicksilver Caucus, a coalition of State environmental associations who are concerned with mercury discharges, and also with the Mercury Policy Project, which is an NGO focused on reducing mercury from all sources. As all the parties continue to coordinate on next steps, we look forward to narrowing the performance goals and agreeing on best approaches to encourage installation of separators.”

While I have offered on several occasions to be more directly — or even indirectly involved — in the Agency’s stakeholder discussions with ADA on their MOU, etc., my requests have never been granted. In fact, this lack of involvement was made clear in my September 16, 2009 email to Mr. Michael Shapiro, EPA Office of Water. This email was written in response to Mr. Shapiro’s letter of July 20, 2009 (which was in response to our June 15, 2009 letter from over 25 state and national environmental/health groups to U.S. EPA Administrator Lisa Jackson¹):

“With the minor exception of the recent EPA instruction (to) ADA to share the preliminary results of mailed survey received in an Aug. 31, 2009 email from ADA , the continuing lack of openness and transparency on behalf of EPA in adequately opening the process to NGOs as stated in your July 20, 2009 response (continues), where EPA apparently refuses to recognize NGOs as stakeholders in the process, stating only (in your letter) that: "...EPA will consult with its state partners regarding implementation of the MOU."

In addition, in the September 2009 email, I also expressed concerns over the tardiness of the parties in complying with the terms set forth in the Dec. 29, 2008 MOU related to ADA establishing a baseline. I stated that this slippage could have implications on establishing interim goals within one year and, most importantly, affect the overall goal to "...demonstrate a significant increase in the use of amalgam separators within a reasonable amount of time."

Unfortunately, it appears that the Agency remains stifled on both moving forward with the goals of the MOU and in revising EPA’s 2002 emissions inventory on dental mercury releases, thereby stymieing dental mercury reductions nationally. Therefore, I would respectfully propose that you (or your staff) convene a meeting (perhaps either before or after the hearing) with EPA political appointees, state officials and other interested parties to discuss a path forward that would collectively engage and involve relevant stakeholders. This, in turn, could (perhaps) inform, inspire and motivate EPA to get past the current gridlock, which only benefits polluters.

In closing, I believe that dentists do want to do the right thing, as evidenced by their attention to compliance in the ten states with best management practices and amalgam separator mandates. As stated in the 2008 Domestic Policy Subcommittee Staff Report, "...whether local dentist offices have six months to meet the provisions or four years, most practices rushed to be compliant in the last two months before the compliance deadline." Thank you (in advance) for your consideration of my request.

Sincerely,



Michael T. Bender, Director

¹ see: http://mercurypolicy.org/wp-content/uploads/2009/06/epa_ada_mou_15_june_2009_final4.pdf