

***Opening Statement
Of
Dennis J. Kucinich, Chairman
Domestic Policy Subcommittee
Oversight and Government Reform Committee
Tuesday, July 8, 2008
2154 Rayburn HOB
2:30 P.M.***

***“Assessing State and Local Regulations to Reduce Dental
Mercury Emissions”***

Good afternoon and welcome.

This hearing continues an examination we began last November into the detrimental impact of mercury on the environment. In particular, we are taking a closer look at mercury released from the dental industry and how state and local governments have worked to reduce those emissions.

Elemental mercury and most of its compounds are extremely toxic substances that can cause chronic and acute poisoning in human beings who come into contact with them. Young children and unborn fetuses are particularly susceptible to mercury poisoning. Today, improper disposal of mercury into wastewater by industries and persons who use it has caused dangerously high contamination levels in many of the country's water bodies.

The dental industry contributes substantially to the amount of mercury that ends up in wastewater, and eventually in fresh water. In places where the disposal of dental amalgam is not subject to regulation, amalgam is frequently discarded by simply washing it down the drain.

Last November, the Subcommittee held its first hearing on this matter where it heard testimony from the EPA as well as the Food and Drug Administration (FDA). In the aftermath of the hearing, the FDA set a deadline to issue a final regulation on the reclassification of dental amalgam and its components which would increase FDA oversight of dental amalgam.¹ We are pleased with the FDA's decision to issue this proposed rulemaking.

During our first hearing, we learned that dental offices constitute the largest source of mercury in wastewater influent.² Once in the wastewater, mercury contaminates the environment in several ways. Most of the mercury entering the wastewater stream concentrates in the sewage sludge, sixty percent of which is spread over land as fertilizer, twenty percent is incinerated resulting in the atmospheric release of

¹ FDA Proposed Rulemaking, 21 CFR Part 872 (2008) pp. 22877-22879.

² Domestic Policy Subcommittee, Oversight and Government Reform Committee, Testimony of Michael T. Bender, *Hearing on Environmental Risks and Regulatory Responses to Mercury Dental Fillings*, 110th Cong. (November 14, 2007).

mercury, and fifteen percent is land-filled.³ The mercury that does not concentrate in sludge is discharged to downstream surface waters along with the treated effluent, namely into lakes, oceans, streams, and land. We also learned that a number of states and municipalities had made attempts at preventing the release of dental mercury from dental offices.

Subsequently, the Subcommittee took a closer look at state and local government efforts aimed at reducing dental mercury emissions. The Subcommittee surveyed nine states and eight local governments that have attempted to do so and found that when states evaluated the costs and benefits of choosing how to prevent environmental emissions of mercury, they all found that the most economical means for doing so was to prevent the dental mercury from entering their wastewater as opposed to removing the mercury from the wastewater.

The technology used to capture mercury in the dentists' offices before it enters the wastewater stream is the Mercury Amalgam Separator. Our survey revealed that to prevent dental mercury from entering municipal wastewaters, state and local governments have either encouraged voluntary use or mandated the use of separators. Our findings indicate that successful voluntary programs were incentivized programs that offered less cumbersome compliance requirements and were

³ *Id.*

underpinned with the threat of a mandatory program. Moreover, most of the state or local governments that we surveyed initiated a voluntary program before enacting provisions, in the form of a regulation, ordinance, or statute, mandating the installation of separators and a recycling program. Only after the failure of their voluntary programs to achieve their desired compliance goals did these governments switch to a mandatory program.

Today we will hear from several of those state and local government representatives about how they grappled with these challenges, what were their lessons learned, and how their regulatory experience can help other states and local governments seeking to reduce dental mercury discharges to their wastewater.

We will also hear from the American Dental Association (ADA). The ADA constitutes one of the most significant stakeholders in the effort to reduce dental mercury emissions. As we will hear today, among the most valuable lessons learned in the effort to achieve compliance is the importance of the cooperation and leadership of local and state dental societies. The ADA has already made significant strides in leading the effort to reduce dental mercury emissions. Most recently, it amended its Best Management Practices to reflect its endorsement of amalgam separators as an effective tool to reducing mercury contamination from

the dental industry. The ADA writes that “the use of separators will allow greater recycling and reduce the amount of amalgam which contains mercury, entering wastewater treatments plants.”⁴

Some of the questions that we hope to address in today’s hearing are:

- (1) What is the impact of dental mercury on the environment?
- (2) What is the efficacy of amalgam separator units?
- (3) What is the cost-benefit analysis of amalgam separators made by state and local governments?; and
- (4) What are the considerations to make when deciding between a voluntary and a mandatory dental mercury reduction program?

The Subcommittee looks forward to hearing the testimony of our witnesses today and to continue our investigation of how state and local governments can effectively reduce dental mercury emissions.

⁴ ADA, Press Release, “ADA Updates Environmental Recommendations for Handling Waste,” (October 2, 2007) available at http://www.ada.org/public/media/releases/0710_release01.asp.