

Talking Points for Meeting with White House Office of Management & Budget on Proposed Dental Amalgam Separator Rule

The National Association of Clean Water Agencies (NACWA) represents the interests of nearly 300 public clean water agencies throughout the U.S. NACWA members operate highly successful pretreatment programs and are actively involved in efforts to reduce the quantities of pollutants that are discharged into the sewer system. Mercury reduction has been a top priority for NACWA for almost two decades. We have maintained an active Mercury Workgroup for much of this time and have conducted several research projects to look for better ways to address mercury at its source, including an EPA-funded cooperative agreement to explore mercury sources to our influent.

Despite our efforts and those of our members to address mercury, NACWA cannot support a national dental amalgam separator rule through the Effluent Guidelines Program that would require publicly owned treatment works (POTWs) to regulate the over 120,000 dental offices nationwide. Existing state and local dental amalgam separator programs have been effective in reducing the amount of mercury discharged into the environment, and new federal requirements are likely to disrupt these programs. In addition, POTWs that do not have elevated influent mercury levels could better use their resources on other environmental concerns, since the costs to POTWs to regulate large numbers of dental offices will be substantial. NACWA will support a national rule only if a strict set of requirements, outlined briefly below, is met.

Existing Dental Amalgam Separator Programs are Successful

- At least eleven states and many additional local governments have already implemented successful dental amalgam separator programs based on an established water quality need. Examples include:
 - The Narragansett Bay Commission, Providence, RI – influent mercury reduced at its two treatment plants by 57% and 53% since the program was established in 2005.
 - Central Contra Costa Sanitary District, Martinez, CA – 74% reduction in influent mercury, 67% reduction in effluent mercury, and 77% reduction in biosolids mercury since the program was established in 2007.
 - Western Lake Superior Sanitary District, Duluth, MN – 60% reduction in total mercury emissions (208.7 lbs to 83 lbs) since the program was established in 1990.
- Each existing program has determined its own compliance, inspection, and enforcement requirements that meet the needs of the POTW, the dental community, and other local conditions.
- POTWs with existing programs have established relationships with the dentists in their service areas and have achieved nearly universal compliance with their programs.

- A national rule could disrupt these existing programs by changing requirements and procedures and damaging the established relationships between dentists and POTWs.

Dental Amalgam Separator Programs are Not Necessary for all POTWs

- Some POTWs do not experience elevated influent or effluent mercury levels and do not need to implement dental amalgam separator programs. Examples include:
 - The City of Greensboro, NC – most of Greensboro's 200+ dentists are located in the service area of one treatment plant, which has a 98.2% removal rate for mercury and in 2011 had an average biosolids mercury concentration of 0.18 mg/kg, well below the land application regulatory limit of 17 mg/kg. Total effluent mercury per year for Greensboro is only 0.475 lbs.
 - The Los Angeles County Sanitation Districts (LACSD) – LACSD's largest facility, the Joint Water Pollution Control Plant, is one of the largest wastewater treatment plants in the world, processing approximately 280 million gallons per day (MGD). The plant discharges only 0.007 lbs of mercury per day. Influent mercury loadings are approximately 0.5 lbs/day.
- EPA's 2008 Health Services Industry Detailed Study for Dental Amalgam only estimated the costs of a national amalgam separator requirement for dental facilities, not for POTWs. The costs for POTWs to establish and maintain a dental amalgam separator program are likely to be substantial, even if requirements are kept to a minimum, due to the large number of dentists (often in the hundreds and sometimes in the thousands) that each POTW must regulate.
- POTWs should be able to prioritize their environmental concerns, which is a key component of EPA's Integrated Planning approach. POTWs should not be forced to use limited resources to establish a dental amalgam separator program that is not warranted based on water quality needs or a POTW's need to lower the mercury content of its biosolids.
- Due to economic constraints, many POTWs will find it difficult or impossible to hire new staff to maintain and establish dental amalgam separator programs. The staff time available to focus on other dischargers to the sewer system with a greater environmental impact will therefore be decreased.

Requirements for an Acceptable National Dental Amalgam Separator Rule

If NACWA is to support a national dental amalgam separator rule, the following requirements must be met by the rule:

- Dental offices must never be classified as significant industrial users (SIUs), since the requirements for SIUs are inappropriate for dental offices. Dental offices must not be classified initially in a newly-created dental user category but with a provision that a violation (which could include something as simple as a reporting violation) would make the dental office become a SIU. In some states, classifying dental offices would also require POTWs without traditional SIUs to establish pretreatment programs to only regulate dentists. We understand that

accomplishing this would require more substantial revisions to the pretreatment regulations, but this is essential to reduce unnecessary burden on POTWs.

- If a special category is created for dental offices, such as a “dental industrial user” (DIU) category, the rule must still clarify that POTWs without traditional SIUs would not need to establish pretreatment programs to only regulate dentists.
- Only best management practices (BMPs) will be required, with no requirements for inspections of dental offices by POTWs. POTWs must be given local discretion for enforcing the BMPs.
- POTWs that do not discharge to a mercury-impaired water body and/or do not have significant mercury loadings should be exempt from the rule.
- The rule and auditors of POTW pretreatment programs must recognize that dental offices are substantially different in character than traditional sewer system industrial users. For instance, it will be much more difficult for POTWs to keep an up-to-date list of dental offices than for traditional industrial users due to the rate at which dental offices move and close.
- Any provisions of the rule that might be open to interpretation must be clarified. For example, if the rule did not require inspections by POTWs, an EPA Region could take the position that inspections are the only way to verify self-certification by dental offices.
- The cost-benefit analysis used to justify the rule must consider costs to dental offices, POTWs, and state regulatory agencies. In those parts of the country where POTWs are not running the pretreatment program, state regulatory agencies will be required to implement the new standards. The cost per pound of mercury removed must also be considered.
- A provision must be included to allow the rule to sunset when amalgam use and/or amalgam filling removal drops below a certain level. Dentists’ use of amalgam continues to decrease, and an expensive and time-consuming program should not be continued longer than it is needed.