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## DENTAL AMALGAM SEPARATOR RULE FACT SHEET

The U.S. Environmental Protection Agency (EPA) published a proposed rule on October 22 to establish pretreatment standards for over 100,000 dental offices that place or remove amalgam fillings, requiring these offices to install and maintain dental amalgam separators. The proposed rule would substantially affect the publicly owned treatment works (POTWs) that must oversee the compliance of dental offices. EPA estimates that the reduction of mercury from POTWs into waters of the U.S. will be 860 lbs each year, at a cost of \$44 to \$49 million annually.

NACWA has told EPA on many occasions that a national dental amalgam rule is not necessary, since successful state and local amalgam separator programs have been established where they are needed. Furthermore, utilities without mercury issues can better use their resources on other environmental problems. NACWA believes EPA's estimate of mercury removed from POTW discharges through implementation of the rule is overestimated, and that the cost for POTWs to implement the rule is significantly underestimated.

NACWA is developing detailed comments on the Dental Amalgam Separator Rule and is providing this information about the proposal to help inform Member Agencies developing their own comments.

### Key Elements of the Proposed Rule

The proposed rule contains the following requirements:

- All dental offices that place or remove dental amalgam fillings must remove at least 99.0% of total mercury from amalgam process wastewater, based on the best available technology. This requirement may be met by installation and operation of at least one dental amalgam separator.
- Two Best Management Practices must be used by dental offices:
  - Scrap amalgam must not be flushed down the drain; and
  - Chair-side traps must be cleaned at least weekly with appropriate cleaners.
- Dental offices must prepare a one-time baseline report and initial compliance report, and then provide an annual certification statement to their POTW or other Control Authority (the state or EPA region for dental offices in a jurisdiction where the POTW does not have a pretreatment program).
- Dental offices that have already installed dental amalgam separators may continue using their existing separators, if they comply with the BMPs and recordkeeping requirements.
- POTWs or other Control Authorities are responsible for ensuring that dental offices comply with the rule.

- Since the number of dental offices subject to national pretreatment standards is about ten times the number of Categorical Industrial Users (CIUs) that currently have pretreatment standards, EPA proposes changing the General Pretreatment Regulations to establish a Dental Industrial User (DIU) category, which requires less oversight by POTWs and other Control Authorities.
- DIUs must maintain compliance to keep their DIU status, otherwise Control Authorities must treat the dental office as a Significant Industrial User (SIU). Enforcement action is triggered if a DIU is 45 days late with its annual certification, and compliance (including an inspection by the POTW or other Control Authority) must be achieved within 90 days to avoid the SIU designation.
- EPA proposes a compliance date of three years after the effective date of the final rule, the maximum length of time allowed by the Clean Water Act.

### NACWA Believes a Final Rule Is Not Necessary for the Following Reasons:

- EPA likely overestimated the environmental benefit of the rule for two reasons:
  - EPA estimates that POTWs remove 90% of total mercury from wastewater, based on the out-of-date 1982 50 POTW Study. Current POTW mercury removal rates may be 95% or more.
  - Use of dental amalgam has been decreasing dramatically due to improved alternatives and better oral health, and over half of dentists no longer use dental amalgam for fillings. By using information from 2005, EPA likely overestimated the number of fillings placed and removed each year.
- EPA likely underestimated the cost of the rule by estimating that Control Authorities as a whole would spend an average of 17,400 hours and \$960,000 each year to review the information submitted by dentists to certify that they meet the requirements of the proposed rule. This cost will likely be much higher, especially when the rule first goes into effect.
- EPA “anticipates” that the states will oversee dental offices rather than require a POTW to develop a full pretreatment program solely to regulate dental offices, but there is no requirement that states or EPA regions assume this responsibility. Developing a full pretreatment program only for dental offices would be a large expense with little or no environmental benefit.
- Implementation of the rule as drafted would result in many practical and technical problems for POTWs, especially with the provision that DIUs will become SIUs if in noncompliance.

Comments for Docket ID No. EPA-HQ-OW-2014-0693 are currently due December 22. NACWA and the American Dental Association (ADA) submitted a request to EPA to extend the comment deadline by 60 days. NACWA held a conference call with its Pretreatment & Pollution Prevention Committee to discuss the rule, and the Association will be collecting information via a survey to inform its comments on the rule. NACWA encourages its Member Agencies, including those that currently have dental amalgam separator programs, to provide information to the Association on how the proposed rule will affect their utilities.

Please contact Cynthia Finley at [cfinley@nacwa.org](mailto:cfinley@nacwa.org) for more information.