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February 20, 2015

Attn: Docket EPA-HQ-OW-2014-0693;FRL-9911-63-OW
Ken Kopocis, Deputy Assistant Administrator
U.S. Environmental Protection Agency
Mail Code: 28221T
1200 Pennsylvania Ave., NW
Washington, DC 20460
Via email to: ow-docket@epa.gov

Re: Docket EPA-HQ-OW-2014-0693;FRL-9911-63-OW/Effluent Limitations Guidelines and Standards for the Dental Category

Dear Deputy Assistant Administrator Kopocis:

The Association of Clean Water Administrators (ACWA) appreciates the opportunity to provide feedback on the U.S. Environmental Protection Agency's (EPA) *Effluent Limitations Guidelines (ELGs) and Standards for the Dental Category* (hereinafter, "Dental Amalgam ELG" or "ELG Proposal"). ACWA is the national voice of state, interstates, and territorial officials (hereinafter "states") responsible for the day-to-day implementation of the Clean Water Act (CWA), including those with delegated authority over the pretreatment program.

Technology-based controls represent a fundamental and core aspect of the CWA, and have led to many of the water quality successes we see today. Much of the National Pollution Discharge Elimination System (NPDES) program's success for both direct and indirect discharges has been supported by ELGs. The proposed Dental Amalgam ELG is one potential mechanism for removing mercury from the waste stream and decreasing mercury pollution and the risks it poses to human health and aquatic life. ACWA applauds EPA for working to address the nation's mercury problem, and encourages the Agency to continue to pursue other regulatory efforts aimed at mitigating industrial sources of mercury emissions to air and discharges to water.

As with any CWA regulatory change, state programs will be required to devote resources to implementing the final Dental Amalgam ELG, and for some this will also require changes to their own state regulations. The degree of adjustments and resources required will vary widely from state-to-state depending on whether the state is the delegated authority for the pretreatment program, has an existing dental amalgam separator program, and/or has state-specific regulations for dental offices. Likewise, states vary widely in the number of approved pretreatment programs that currently have an existing dental program. Therefore the corresponding lift and resource burden to an individual state and/or

control authority will vary greatly. EPA should review comments submitted by states and publicly owned treatment works (POTWs) with an eye toward this variability.

In addition to the comments discussed below, ACWA also encourages EPA to give careful consideration to any comments submitted by individual states and the comments of the Quicksilver Caucus (QSC), a coalition of organizations that work collaboratively on raising the profile of mercury pollution issues nationally:

I. Dental Offices in areas where EPA or States are the Control Authority

Many states have a substantial number of dental offices that are in communities lacking a pretreatment program. In states with delegated authority over the pretreatment program, these dental facilities would then become the oversight responsibility of the state. For these states the resource burden would be greater to implement and administer a dental amalgam separator program. This is further compounded in large, rural states where inspections could require traveling hundreds of miles. For example, one particular rural state has one employee dedicated to the pretreatment program and approximately half of its dental offices are in areas not serviced by a wastewater treatment plant with an approved pretreatment program. In a survey of ACWA's members, seven states provided an approximate number of dental offices in their states that would become the oversight responsibility of the state, which ranged from 25 to greater than 2,500 facilities.

ACWA recommends that EPA provide flexibility and consider longer implementation and compliance timeframes for those states that face a significant number of new regulated entities with the creation of this new category of user. The final Dental Amalgam ELG should include data on the number of regulated entities that are not serviced by a wastewater treatment plant with an approved pretreatment program in order to provide a more accurate national picture of the impact to control authorities.

II. Costs

EPA's ELG Proposal discusses the costs of compliance for dental offices, but does not adequately address the costs to states, and POTWs. With respect to the cost to POTWs, the National Association of Clean Water Agencies (NACWA) conducted a survey of its vast membership to obtain a broad data set on the estimated related costs to treatment plants. ACWA recommends that EPA review NACWA's comments on these costs for a more comprehensive look at the costs to these utilities. Likewise, the costs for states to implement and administer the program should be addressed in the final rule. ACWA is ready and willing to assist EPA with gathering cost estimate information from states.

Additionally, ACWA recommends that EPA review its obligations under the Unfunded Mandates Reform Act (UMRA) in light of any data submitted on estimated costs to control authorities and states. In particular, whether additional information on costs would trigger UMRA section 203 requirements due to the regulation's potential to significantly or uniquely affect small governments.

III. Data on Environmental/Water Quality Benefits

ACWA acknowledges that preventing mercury from entering the wastewater stream is one method of controlling the ultimate direct discharge of mercury to water resources. The ELG Proposal and supporting materials contain adequate data on the amount of mercury from dental amalgam that is contained in wastewater discharges to receiving streams. However, the Technical Economic Development Document (TEDD) accompanying the proposal could be bolstered with additional data and information on the impact the ELG could have on mitigating contributions to mercury pollution in waters via air deposition. In these times of ever decreasing resources, states face difficult decisions on where to dedicate resources to achieve the greatest environmental benefits. Some states indicated that air deposition is the greatest contributor to mercury loadings in their waters, and expressed concern that dedicating resources to preventing mercury pollution from wastewater discharges will result in little overall water quality improvement.

ACWA recommends that the final Dental Amalgam ELG include more discussion and data on dental amalgam as a source of mercury air emissions. For example, air emissions from sewage sludge incinerators at wastewater treatment plants. While ACWA does not find that additional studies are needed, the Association recommends that EPA revisit the TEDD's estimates of dental amalgam related air emission contributions and look for more existing data sources representing these air emissions. The QSC's comments, and likely those of other commenters, contain some examples of available data sets that suggest this estimate may actually be significantly higher. A more complete data set in the final proposal will bolster the asserted environmental and water quality benefits achieved with the requisite amalgam separators.

IV. Enforcement Absent a Permit

The ELG proposal indicates that EPA does not intend to issue permits under the dental category. The final ELG should provide more clarity and discussion on how EPA intends to carry out enforcement and compliance absent a permit.

V. Reporting

States are concerned that EPA intends to implement this new dental category as it would other new categories (e.g., baseline report, 90-day compliance report, annual report). However the number of affected facilities necessitates an electronic reporting system to manage this new reporting burden. It is unclear from the ELG Proposal how reporting under this new regulation will interact with the proposed e-reporting rule that EPA is currently working to finalize. Many states are still in the midst of a streamlining process and will now need to accommodate reporting for the Dental Amalgam ELG. States also requested clarity on whether the Integrated Compliance Information System (ICIS)/NetDMR will have the capability to accept reports from dental offices. ACWA recommends that EPA prioritize developing a standardized e-reporting

system that control authorities can utilize to implement national consistency in reporting and managing the certifications of dental offices impacted by the ELG.

VI. Other Issues for Clarification

a.) Prohibition on Bleach

The ELG Proposal expressly prohibits the use of bleach, but does not mention any other oxidizers that could potentially be used for cleaning. There are other non-chlorine oxidizers that could cause the release of mercury from amalgam. ACWA recommends that EPA address the use of these other non-chlorine oxidizers in the final ELG Proposal.

b.) Mobile Units

The ELG Proposal mentions that the regulation applies to mobile units. Practitioners can use mobile units at multiple locations (e.g., prisons), and the locations may not all have the same control authority. ACWA recommends that the final ELG include additional discussion and clarity on the treatment of mobile units under the regulation.

ACWA appreciates EPA's consideration of the above-mentioned recommendations. We look forward to continued discussion with EPA on these issues. Please contact ACWA's Executive Director Julia Anastasio at janastasio@acwa-us.org or (202) 756-0600 with any questions regarding our input.

Sincerely,



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ACWA President