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July 15, 2011

Mr. Damon Highsmith
Office of Science and Technology, Office of Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW 4303T
Washington, DC 20460

Subject: Comments on Federal Dental Amalgam Program Currently Under Development

Dear Mr. Highsmith:

Tri-TAC appreciates the opportunity to provide comments to you as you develop a potential federal rulemaking regarding dental amalgam control requirements that would apply to the entire United States. Tri-TAC is a technical advisory group jointly organized by the California Association of Sanitation Agencies (CASA), the California Water Environment Association, and the League of California Cities. Together these statewide associations comprise many cities and special districts that provide wastewater collection and treatment for most of the 37 million people in California.

Tri-TAC is very concerned about the direction that USEPA appears to be moving toward in designating dentists Categorical Industrial Users (CIUs) under the federal pretreatment program. We believe it is inappropriate to classify dentists in this way. The uniqueness of the services dentists provide, and the professional nature of dentists, means that a different approach is critical to the success of controlling the discharge of dental amalgam to sanitary sewers.

Further, nationally regulating dentists that may discharge dental amalgam as Significant Industrial Users (SIUs) is a very extreme way to control the discharge of mercury to the environment. Tri-TAC suggests that only publicly-owned treatment works (POTWs) that discharge to receiving waters identified as impaired on a 303(d) list under the Clean Water Act should be considered by USEPA to require dentists in their service area to control the discharge of dental amalgam to sanitary sewers. It is a waste of public resources for local agencies to set up programs when a receiving water impairment does not exist. In addition, for those hundreds of agencies around the United States that already have successful dental amalgam control programs in their local communities, a new federal program that adds bureaucracy without any significant benefits is not good public policy.

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Another significant problem in classifying dentists as CIUs is that many POTWs around the country that do not currently operate a pretreatment program may all of a sudden, under this approach, be required to develop a pretreatment program. Currently, POTWs with a design flow of less than 5 MGD are not generally required to participate in the federal pretreatment program, a very comprehensive program with significant staffing and other resource demands for local municipal agencies. However, based on current practices, designating dentists as CIUs would most likely result in the receiving POTW being required to develop a pretreatment program which would be a potentially large burden for small agencies. In addition, even for those agencies that currently have a pretreatment program, adding dentists to their program could increase the program scope and costs by 100-1,000% or more, given there are many more dentists than the current number of SIUs in most communities.

Tri-TAC understands that USEPA is under congressional pressure to do something to control mercury discharges to the environment, including minor sources such as dental amalgam. Tri-TAC recommends that USEPA take no action in regulating dental amalgam on a national level. However, in the event dental amalgam regulations are developed, Tri-TAC believes that USEPA should reduce the magnitude of the costs to dentists and pretreatment programs by ensuring the proposed dental amalgam regulations specify that all dischargers subject to the dental amalgam regulations are non-significant CIUs, not subject to requirements found at 40 CFR 403.3 (v)(2) and that Baseline Monitoring Reports, compliance schedules, and 90-day compliance reports not be required. Furthermore, the dischargers subject to the dental amalgam regulations should not be subject to publication in Significant Non-Compliance. Tri-TAC also believes that instead of effluent limitations, any proposed dental amalgam regulation should be based on BMPs developed by USEPA in conjunction with interested stakeholders. Additionally, the proposed dental amalgam regulations should require a one time registration and/or certification by the dental offices in lieu of control mechanisms, sampling, and inspections by the POTWs.

If USEPA proposes a regulation based on BMPs, they can rely on many previously well developed non-SIU-based models as examples. Different localities use different models, depending on such criteria as the size of the community, number of dentists in a community, whether local waterway(s) are impaired for mercury, etc. Examples of successful models are being implemented in the San Francisco Bay Area, where 85% or more of dentists are already participating in control programs, and programs in New England, where several states have strong dental amalgam control programs.

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Tri-TAC hopes that USEPA will incorporate these comments and suggestions into the development of the federal dental amalgam control program. We would be happy to answer any questions or provide additional information. Thank you very much.

Sincerely,



Ben Horenstein
Tri-TAC Chair

cc: Senator Diane Feinstein, CA
Senator Barbara Boxer, CA
Alexis Strauss, USEPA Region IX
Tom Howard, California State Water Resources Control Board
Gene Wurth, Executive Director, American Dental Association