

Dental Effluent Guidelines/Clean Water Act: U.S. Environmental Protection Agency Publishes Document Responding to "Frequently Asked Questions"



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The United States Environmental Protection Agency ("EPA") published a May 2018 document intended to respond to what it describes as "Frequently Asked Questions" regarding the recently issued Clean Water Act Dental Effluent Guidelines ("Guidelines").

EPA had promulgated pretreatment standards pursuant to its Clean Water Act authority to reduce discharges of mercury from dental offices into Public Owned Treatment Works. See 40 C.F.R. Part 441.

Section 301(b) of the Clean Water Act authorizes EPA to promulgate national categorical standards or limits to restrict discharges of specific pollutants on an industry-by-industry basis. The effluent limits are derived from research regarding pollution control technology used in the industry. The analysis will typically include the degree of reduction of a pollutant that could be achieved through the use of various levels of technology, including best management practices. The applicable standard is dictated by the kind of pollutant discharge (i.e., toxic, conventional, or non-conventional) and whether a new or existing discharge is involved.

Facilities may on occasion use means other than pollutant controls to achieve prescribed limits. Pollutant reduction or minimization are examples.

EPA's development of categorical effluent limits is an ongoing process. The federal agency continues to promulgate standards for facilities that have not been addressed. The Guidelines applicable to dental offices is a recent example.

Dental offices discharge mercury present in amalgam used for fillings. EPA has previously stated that amalgam separators are a practical, affordable, and readily available technology for capturing mercury and other metals before they are discharged into sewers that drain into public owned treatment works. It is further stated that once captured by a separator, mercury can be recycled.

EPA's May 2018 document addresses the following 13 questions in regards to the dental guidelines:

1. Does the dental office category rule apply to dental facilities that discharge to publicly owned treatment works (POTWs) (e.g., municipal sewer system) that have a dental amalgam reduction program?

2. Is a dental discharger considered an “industrial user”?
3. Are control authorities required to identify all dental dischargers?
4. As a control authority, what are my oversight and enforcement responsibilities regarding dental dischargers?
5. What are the recordkeeping requirements for the dental office category rule for a control authority?
6. Does a dental discharger that places or removes amalgam and submitted a one-time compliance report need to submit another one-time compliance report if there are changes to the information provided on the report (e.g., I replace my amalgam separator or change the total number of chairs in my facility)?
7. Can control authorities modify the language in the sample one-time compliance report that EPA posted?
8. Does the 2015 NPDES Electronic Reporting Rule (40 CFR Part 127) require dentists to electronically submit their one-time compliance reports?
9. Can a control authority set up an electronic reporting system to collect the one-time compliance reports?
10. Does the dental office category rule apply to septage haulers who service the septic tanks of dental facilities?
11. There is a dental facility that collects all amalgam process wastewater in a wastewater retaining tank, which is then pumped out of the tank and transferred to a privately owned wastewater treatment facility (a Centralized Waste Treatment, or CWT, facility as defined in 40 CFR Part 437). The CWT does not discharge the dental amalgam process wastewater to a POTW. Are these dentists subject to the rule and thereby required to submit a one-time compliance report?
12. Are there any requirements in the dental office rule that apply to POTWs that discharge to a water body listed as impaired on the State’s CWA 303(d) list due to mercury?
13. What are the regulatory consequences for dental dischargers that fail to comply with Part 441?

A copy of the [Frequently Asked Questions](#) document can be downloaded here.