

Recognition For Dental Providers Using Amalgam Removal Equipment

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For more information contact:

- Minnesota Pollution
Control Agency at
651-296-8006

Background

The Metropolitan Council Environmental Services (MCES) operates Wastewater Treatment Facilities serving the Twin Cities metropolitan area. The Minnesota Dental Association (MDA) is a statewide organization of dentists. MCES and MDA have jointly developed a Dental Mercury Reduction Initiative. Although the initiative was developed by MCES and MDA, MDA has decided to go statewide with the program. Under the initiative MDA will:

- Send promotional materials to dentists statewide. The material, developed in cooperation with MCES, promotes Best Management Practices (BMPs) for dental mercury, including the voluntary use of equipment to remove dental mercury amalgam from wastewater.
- Track participation by dentists installing dental mercury amalgam equipment.
- Provide continuing education credit to dental employees who view a BMP video and take a test on the content.

Under the initiative MCES will:

- Issue a "certificate of compliance" to dental sites that (1) install amalgam-removal equipment that is at least 99% efficient and (2) commit to use of dental mercury BMPs including proper operation of the removal equipment.
- Require dental sites having a certificate of compliance to annually certify that they are operating and maintaining removal equipment properly and following BMPs.

- Conduct a limited number of spot checks to confirm that BMPs are being followed and removal equipment is being properly operated and maintained

Since MDA intends to implement this program statewide, it would like to have cities and other authorities operating Publicly Owned Treatment Works (POTW) outside of the metro area issue certificates similar to those MCES will issue. This program is voluntary for both dental offices and POTWs.

Certificates

Certificates could take the form of a "certificate of recognition" or a "certificate of compliance". A certificate of recognition would recognize the dentists' effort to install amalgam-removal equipment, but not legally limit the POTW in any way. A certificate of compliance would state that the POTW considers the dental site to be in compliance with local requirements (meaning any local mercury limit).

There are no restrictions on, nor problems with a POTW issuing a certificate of recognition to a dental office. Any willing POTW can do it.

There are more restrictions and considerations involved when a POTW wishes to issue a certificate of compliance. Typically the effect of a certificate of compliance is that a facility

- would not be required to get a permit;
- would not have to monitor its effluent for mercury; and
- would be considered to be in compliance as long as it operates its amalgam-removal equipment properly and follows the other BMPs.



The main restriction on the use of a certificate of compliance will be a POTW's own ordinance, particularly if the ordinance contains a numeric concentration mercury local limit. A POTW's ordinance that does not contain a numeric concentration mercury local limit, probably will not present any barrier to issuing a certificate of compliance. If the POTW's ordinance does contain a numeric concentration mercury local limit, the POTW could argue that the amalgam removal equipment is equivalent to meeting the local limit. For example: MCES contends that the use of the required level of amalgam-removal equipment will be fully equivalent to meeting its mercury local limit. Alternatively, a POTW could rely on ordinance language allowing exemptions to the local limits, or BMPs in lieu of a numeric local limit.

Another potential restriction to issuing a certificate of compliance would be if the POTW has an effluent limit for mercury. If a POTW has a mercury effluent limit, it would need to be able to show that issuing certificates of compliance would not cause the POTW to be in noncompliance. This should be possible in nearly all cases.

- Where a POTW has a mercury effluent limitation, but does not need a variance because they are in compliance (i.e. no effluent mercury violations), the required showing should be practically self evident.
- Where a POTW has a variance from a water quality based effluent limit and a requirement for a Mercury Pollutant Minimization Plan (PMP), the POTW would have to show how granting certificates of compliance would fit into their PMP.
- Where a POTW has an effluent limitation and has some effluent violations, but does not have a variance from the limit, the necessary showing would be slightly more involved. The POTW would have to show that it would likely be in compliance with its effluent limit if all dentists participated in the dental mercury-reduction initiative, and if other users discharging mercury also made comparable reduction efforts.
- Not yet having an effluent limit does not present an issue for a POTW and there no showing would be needed at this time.

Recommendations and Policy

MPCA staff believes this initiative has great potential limited only by the amount of participation. Therefore MPCA staff encourages participation by POTWs as follows:

- We encourage POTWs to issue certificates of compliance provided they can be reasonably justified as outlined above. The MPCA will accept reasonable legal justification from POTWs for issuing a certificate of compliance. Where a certificate of compliance cannot be justified or is not used, we encourage POTWs to issue certificates of recognition.
- The use by POTWs of certificates of recognition or certificates of compliance for dental offices should be limited to offices that follow the MDA recommended BMPs, including the use of an amalgam separator.
- Some POTWs may want to amend their ordinances to allow BMPs, such as amalgam-removal equipment, in lieu of the local limit. Formal approval of such ordinances changes would only be required for delegated POTWs since we routinely review and approve changes to their ordinances.

Notification

POTWs who issue either certificates of compliance or certificates of recognition to dental offices participating in the Dental Mercury Reduction Initiative are requested to notify the MPCA of that fact.

POTWs with delegated pretreatment programs must notify the MPCA of its intent to issue certificates of compliance since that may affect its application of local limits. The notification should include any showing needed to justify use of a certificate of compliance, as outlined above.

All POTWs intending to issue certificates of compliance should maintain records of any showing needed to justify use of a certificate of compliance, as outlined above.

Resources

Visit the MDA Web site at:

http://www.mndental.org/professionals/amalgam_recovery

For a sample certificate of recognition, visit MPCA's Web site at: <http://www.pca.state.mn.us>