



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAR 4 2010

REPLY TO THE ATTENTION OF:

WN-16J

Mr. William Creal
Chief, Water Bureau
Michigan Department of Natural
Resources and Environment
P.O. Box 30273
Lansing, Michigan 48909-7773

Re: Public Act 503 of 2008, Michigan Dental Amalgam Law

Dear Mr. Creal:

I am writing this letter to express our concern regarding Michigan's legislation. As you know on January 13, 2009, the State of Michigan passed the Amalgam Separator Law, Pub. A. 503 (2008), *codified at* M.C.L.A. 333.16631. The Michigan law requires all dentists to install a separator device with at least 95% efficiency on wastewater drains used to discharge dental amalgam wastes (mercury) from metal fillings. The Michigan law goes further and specifically prohibits local governments, like Publicly Owned Treatment Works, (POTWs) from imposing conflicting, different or additional standards or requirements on dentists.

As you know, POTWs operate under a federally approved program pursuant to Section 307(c) of the federal Clean Water Act. Pursuant to 40 C.F.R. 403.5(c) POTWs need to be able to freely promulgate pretreatment standards to prevent discharge of pass-through pollutants into POTWs as they deem necessary. The Michigan law prohibits POTWs from imposing more stringent local pretreatment limits than those in the Michigan law. The state law now stands as an obstacle to the accomplishment and execution of the full purposes and objectives of a federally approved pretreatment program.

Additionally, 40 C.F.R. Section 123.62 requires the state to keep the U.S. Environmental Protection Agency fully informed of any proposed modification to its basic statutory or regulatory authority. EPA has not received any such notification.

Our office has been communicating with Dan Dell, Barry Selden and Grace Scott of your staff regarding this issue. We recognize the positive environmental benefits of this requirement; however, the provision which limits local governments' ability to impose more stringent standards consistent with the National Pollutant Discharge

Elimination System authorized pre-treatment program must be resolved. Please contact me at 312-886-9296 if you would like to further discuss the matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tinka G. Hyde', with a long horizontal line extending to the right.

for Tinka G. Hyde
Director, Water Division

cc: Dan Dell, MDEQ
Barry Selden, MDEQ
Grace Scott, MDEQ