

**TCEQ Texas Pollutant Discharge Elimination System (TPDES)
Pretreatment Program Stakeholder Meeting**

January 27, 2022 @ 1:30 p.m.

Virtual Meeting via MS Teams

Meeting Summary

Welcome and Introductions

Robert Sadlier

Updates from January 2020 Pretreatment Stakeholder Meeting

Program Initiatives

Colleen Cook

- The Program Modification Backlog Initiative was started a little over two years ago, in September of 2019, when we had over 65 program modifications pending review and approval. As you can see on the bar graph, in January 2020 we had a long way to go with less than ten modifications tech completed and close to 45 pending review. In addition to the magnitude, the majority of these program modifications were submitted more than a few years ago, and with a team of all new staff members, we essentially had to start our reviews from the beginning in order to put the pieces together and complete our understanding.
- I am happy to report that we rose to the challenge as a result of all of our hard work over these last two years, we have approved or deemed technically complete over 90% of our universe of pending program modifications. As you can see on the January 2022 bar graph we have now technically completed or approved 60 backlogged program modifications and are currently in the review stage with five of the remaining six modifications. The plan that we have in place is to finish the review and approval of all of our pending modifications and then shift gears to the new developing programs within the next year. We appreciate everyone working with us to accomplish this tremendous task. If you have submitted a program modification to us, and you have not heard from us about it at this point, please contact me to discuss the status of our review. Are there any questions on the progress that we have made on our backlog initiative?

TPDES Permit Influent/Effluent Testing Requirements for Pretreatment Programs

- Through the issuance of TPDES permits, the TCEQ requires approved pretreatment programs to conduct regular influent/effluent testing. Since the last stakeholders meeting, we have heard from both sides on the matter - those who are supporters of our current influent/effluent testing requirements and those who would like to see this requirement revised. All of the feedback that we received was very informative and beneficial, and we took everyone's comments into consideration. As the Approval Authority for all approved pretreatment programs throughout the State of Texas, we have historically required regular influent/effluent testing as a result of the requirements detailed in our Memorandum of Agreement with EPA. We utilized EPA Region 6 guidance to develop a process that has been consistently implemented, and our influent/effluent monitoring practices in Texas have been successful. Texas uses the collected analytical data to protect publicly owned treatment works and receiving waterbodies, and we value data. Our current influent/effluent practices are proactive and protective of the environment and human health. Therefore, we will maintain the status quo at least for now. If you have any specific questions or concerns regarding how our current influent/effluent testing requirements impact your individual pretreatment program, please feel free to reach out to me. Any additional questions or comments regarding these testing requirements?

❖ *Questions:*

Stakeholder Question: How is the data proactive? Stakeholder indicated that Pretreatment programs should be able to reduce parameters they are required to test for if they have historical data proving certain pollutants have not been present.

TCEQ Answer: *40 CFR Part 122 Appendix requires testing for these priority pollutants. Programs are required to test at this frequency to determine which pollutants may potentially be present. Just because a pollutant hasn't been present historically, doesn't mean it won't be in the future. Proper monitoring will ensure these pollutants are identified if they become present/active in the collection system.*

Stakeholder Question: Stakeholder states certain pesticides are no longer manufactured in the US - why should POTW's have to test for these if they have historical data that show it's not present in their discharge?

TCEQ Answer: *These pollutants are listed in 40 CFR part 122 and because these are on the EPA's list of pollutants of concern, programs must test for them. As the Approval Authority for the State of Texas, TCEQ is required to present data to the EPA demonstrating that these pollutants are not present and are being tested for.*

Implementation of EPA Dental Amalgam Rule

Bridget Malone

- During the Pretreatment Stakeholder Meeting in January 2020, we presented a draft FAQ for Control Authorities regarding the EPA Dental Amalgam rule. We revised the FAQ based on additional comments and concerns submitted to the agency, and that revised FAQ document can be found on TCEQ's Dental Rule webpage. At this point in time, all control authorities (CAs) should have submitted to the TCEQ their One Time Compliance Report (OTCR) form as a modification to their approved program. Any additional new forms or documents that are created by a program for implementation of the Dental Rule, should also be submitted to the TCEQ as a program modification. CAs may choose to enforce against dental dischargers if they desire to do so. In such instances, CAs will need to ensure that they have the legal authority, appropriate procedures and other documentation incorporated into their approved pretreatment programs. TCEQ is not requiring CA's have the ability to enforce against dental dischargers. Please reach out to Pretreatment Team staff if you have any questions regarding the submittal of the OTCR report or implementation of the Dental Rule.

Pre-Application Meetings for Program Modification Submissions

- Starting January 1, 2021, the TCEQ Pretreatment Team has been requiring mandatory pre-application meetings on all nonsubstantial and substantial program modification submissions. This new process was established in order to ensure that all of the appropriate information is included in program modification submissions, and it also provides the framework for open communication and time-efficient reviews. The pre-application meetings we have had so far have been successful in starting the review process off on the right foot and ensuring both the CA and TCEQ are on the same page. Please contact the TCEQ Pretreatment Team at WOpnet@tceq.texas.gov to set up a pre-application meeting at least two weeks prior to the official submission of any nonsubstantial or substantial program modifications

Regulatory Update: Federal Revisions to EPA's PFAS Final Rule

Jessica Alcoser

- EPA has issued the final PFAS rule which became effective on June 22, 2020. In this rule, EPA added 172 per- and polyfluoroalkyl substances (PFAS) to the list of chemicals subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 6607 of the Pollution Prevention Act (PPA). Facilities affected are

facilities who manufacture, process, or otherwise use any of the PFAS chemicals listed in the rule. More specifically, EPA is adding these chemicals to the EPCRA Section 313 list of toxic chemicals, otherwise referred to as the Toxics Release Inventory (TRI).

- Additionally, in September 2021, EPA published the Effluent Limit Guideline (ELG) Preliminary Plan 15 as well as the Multi-Industry Study of PFAS. These documents outlined EPA’s initiatives on revising pretreatment standards to address the discharge of per- and polyfluoroalkyl substances (PFAS) from facilities that manufacture PFAS. In October 2021, EPA released the PFAS Roadmap, which established timelines for action—whether it is data collection or rulemaking—on the **nine** industrial categories in the proposed PFAS Action Act of 2021.
- EPA’s multi-faceted approach entails:
 - o Undertake rulemaking to restrict PFAS discharges from industrial categories where EPA has the data to do so — including the guidelines for **organic chemicals, plastics and synthetic fibers (OCPSF), metal finishing, and electroplating**. **Proposed rule is expected in Summer 2023 for OCPSF and Summer 2024 for metal finishing and electroplating.**
 - o Launch detailed studies on facilities where EPA has preliminary data on PFAS discharges, but the data are currently insufficient to support a potential rulemaking. These include electrical and electronic components, textile mills, and landfills. EPA expects these studies to be complete by Fall 2022 to inform decision making about a future rulemaking by the end of 2022.
 - o Initiate data reviews for industrial categories for which there is little known information on PFAS discharges, including leather tanning and finishing, plastics molding and forming, and paint formulating. EPA expects to complete these data reviews by Winter 2023 to inform whether there are sufficient data to initiate a potential rulemaking.
 - o Monitor industrial categories where the phaseout of PFAS is projected by 2024, including pulp, paper, paperboard, and airports. The results of this monitoring, and whether future regulatory action is needed, will be addressed in the Final ELG Plan 15 in Fall 2022.

The Final ELG Plan 15 is expected in Fall 2022. At this time, control authorities and affected industrial facilities should continue to ensure they have reviewed any updates to federal regulations and categorical standards, as well as, make efforts to keep current with all of EPA’s ongoing PFAS initiatives.

❖ *Questions:*

Stakeholder Question: Can TCEQ provide a summary of this PFAS presentation or can a copy be found online?

TCEQ Answer: *Yes, all of this information is on the EPA PFAS online road map and can be found here: [PFAS Strategic Roadmap: EPA’s Commitments to Action 2021–2024](#)*

Stakeholder Question: Is the PFAS update specific to certain subcategories within the aforementioned categorical standards?

TCEQ Answer: *TCEQ will look into the specifics and provide an update at the next meeting.*

Pending Pretreatment Program Modifications and New Developing Programs

TPDES Permit Action Process for all Substantial Program Modifications *Colleen Cook*

- I would like to provide a quick update on the TPDES permit action needed for technically complete sub mods. Now that we have been successful in essentially completing all pending program modification reviews, we are going through the process of incorporating technically-complete SUBSTANTIAL modifications into CAS’ pretreatment programs via

TPDES permit actions. The Pretreatment Team will be in contact with CAs regarding any questions on the incorporation of your recently approved substantial modification into the POTW's tracking or covered TPDES permit. It is important to note that although initially only one TPDES permit within the approved program is modified to incorporate the new substantial modification approval date, the modification becomes incorporated into the entire program (i.e., all covered WWTPs under the program).

- If you have submitted a program modification to us, and you have not heard from us about it at this point, please contact me as soon as possible, to discuss the status of our review.

Technically-Based Local Limit Redevelopments

Jessica Alcoser

- We are pleased to report to our stakeholders that we have successfully processed all of the pending TBLL redevelopment submissions that were a part of the pretreatment program modification backlog. At this point, all pending TBLLs have been either declared technically complete or are currently under technical review by a staff member. The agency's review of TBLLs redevelopment submissions is conducted using the U.S. Environmental Protection Agency's (EPA) *Local Limits Development Guidance Manual* (EPA TBLLs Guidance) and *Local Limits Development Guidance Appendices*, July 2004, and the *EPA Region 6 Technically Based Local Limits Development Guidance* (EPA Region 6 TBLLs Guidance), October 1993.
 - We would also like to take this opportunity to clarify that for control authorities re-calculating TBLLs for their POTW, TCEQ is requiring that all TBLL redevelopment submissions contain a minimum of seven consecutive days of sampling for the influent, effluent, & domestic/commercial background locations. TCEQ is obligated to make decisions on data that is accurate and representative of current conditions and therefore it is our programmatic policy that all TBLL redevelopment submissions shall include, at a minimum, a sampling event study of seven consecutive days to calculate pollutant removal efficiencies.
- ❖ *Questions:*

Stakeholder Question: Seven (7) day consecutive sampling is done per EPA (1993) Guidance and not the more recent 2004 updated EPA guidance. Why is TCEQ's own guidance not reflective of this and why is TCEQ requiring programs to test 7 consecutive days per EPA 1993 guidance?

TCEQ Answer: *TCEQ hears your concerns, and it is something that we are looking into and reaching out to discuss with Region VI. However, this has been our programmatic policy since we were delegated authority to implement the Pretreatment Program back in 1998, so we want to make sure and do our due diligence before changing our historical practice to require consecutive day monitoring for redevelopment studies.*

New Developing Pretreatment Programs

Bridget Malone

- Now that we have successfully cleared the majority of pending program modifications for our current approved programs, TCEQ will begin reviewing the new developing program submissions. There are a total of **eight (8)** developing program submissions that will need to be reviewed. To ensure staff are reviewing the most appropriate documents, Pretreatment staff will reach be reaching out to the developing program contacts to ensure that we have all of the appropriate documents for program review on file. During the review, we plan to implement a collaborative process, in which we schedule either Teams meetings or conference calls to go over any discrepancies so they can be resolved in real-time. These joint-working sessions have minimized the back-and-forth correspondence, as well as provide an opportunity for us to address any questions or concerns. If a developing program would like to submit updated program documents, please contact the Pretreatment Team for further discussion.

Discussion on EPA Method Update Rule

Dr. Erin Darling

- The Water Quality Division is currently in the process of implementing the 2017 EPA Method Update Rule. Since our last meeting in January 2020, the TCEQ MUR Workgroup, that is responsible for overseeing the implementation process of these method rule updates, has done research into how all 50 states and US territories are implementing the 2017 MUR. This research identified some states that are using a similar approach to Texas and some states that have more stringent requirements.
- The TCEQ uses the MALs in Appendix E of the IPs for TPDES permit application screening and TPDES permit reporting purposes. Influent/effluent testing conducted by approved pretreatment programs is included under the TPDES permit reporting requirements. **The TCEQ will ensure that the language included in Appendix E clearly states that the listed MALs are to be used for reporting pollutants at non-detectable concentrations.** For example: prior to reporting a non-detectable result (“less than value”), permittees should compare the non-detectable level to the approved MAL in Appendix E in order to ensure that the analytical method tested down to either the MAL or the (or daily average effluent limit), whichever is greater, for that analyte.
- Additionally, the workgroup has reviewed the monitoring data submitted with the annual pretreatment performance summaries from all of the approved pretreatment programs from 2018 through June 2021. For 81 pollutants with MALs that are proposed to decrease in Appendix E of the IPs, the workgroup investigated the MALs reported by every program that reported a result as non-detectable. The workgroup found that programs in Texas are reporting at or below the proposed MALs for 73 of these pollutants.
- The Pretreatment Team will implement the new MAL values concurrently and consistently with the rest of the Water Quality Division. Are there any questions or concerns regarding the Method Update Rule at this time?

❖ *Questions:*

Stakeholder Question: Is there a timeline of when the new Method Update Rule will be adopted?

TCEQ Answer: *This will coincide with the pending IP revisions.*

Stakeholder Question: Are CAs required to make sure their SIUs meet the new MALs?

TCEQ Answer: *In order for CAs to test to a nondetect they must test down to the MAL value.*

Stakeholder Question (Mr. Steve Barry): Question specific to SIU sampling. Do I need to change SIU permits so they are using the new testing method (i.e. able to report nondetect)?

TCEQ Answer: *Does the permit require SIUs to test down to the MAL?*

Stakeholder Question: Stakeholder indicated that Part 136 is listed in SIU permits.

TCEQ Answer: *We will look into this more and follow up.*

TCEQ Additional Follow up: *SIUs must adhere to the sampling and analytical requirements in Part 136. SIUs must use methods approved in Part 136 that are sufficiently sensitive to demonstrate compliance with the applicable local limit or categorical limit. Unless required to do so by the CA, SIUs do not need to test down to the TCEQ MALs.*

Stakeholder Question: Will the new IP draft be emailed for public comment? There are a lot of issues with laboratories meeting some of the existing MALs for some pollutants.

TCEQ Answer: *Yes, the new IPs will be open for public comment. And all questions will be referred to the MUR workgroup for additional review.*

Stakeholder Question: Please follow-up with the entire group on this. This will have some major impacts on sampling capabilities and cost as well.

TCEQ Answer: Absolutely, we will also be conducting more stakeholder meetings where this topic of conversation can be revisited. Please contact Colleen Cook if there are any additional questions in the meantime.

Stakeholder Question (Jennifer Whitaker): Are there going to be additional discussions with the MAL stakeholder group that includes several labs across the states?

TCEQ Answer: TCEQ will provide an update after discussing with the MUR workgroup.

Questions & Answers

Colleen Cook

Stakeholder Question: In the event the wastewater sample has to be diluted will the ND be accepted if the lab is utilizing the correct method that typically meets the MAL limits?

TCEQ Answer: This is a great question for the MUR workgroup to consider. And we will pass along all questions regarding this topic to them for further consideration.

Stakeholder Question: Is there an agenda draft for the next stakeholders meeting?

TCEQ Answer: Not at this time. But as soon as we have the next meeting scheduled, we will be letting all stakeholders know.

Stakeholder Question: Recommendation to give one of the agenda items to a stakeholder to present in order to increase stakeholder interaction.

TCEQ Answer: Great idea. We will consider ways to incorporate this idea into future meetings.

Stakeholder Question: When will we go back to in-person Stakeholder meetings? Mentioned that the Pretreatment Region 6 workshop coming up in Denton, Texas is in in-person.

TCEQ Answer: We are working on having in-person Stakeholder meetings, and we will be having some upcoming TCEQ events in-person (Environmental Trade Fair). We are having in-person meetings at the CA's request, and TCEQ is now open to the public. You are welcome to come by for a meeting!

Stakeholder Question: Are CAs required to submit a program modification for the Dental Amalgam Rule?

TCEQ Answer: A nonsubstantial program modification is required for approval of the Dental One Time Compliance Report form.

Stakeholder Question: Will Streamlining Modifications be incorporated with the next permit or will they be issued as a permit modification when deemed Technically Complete?

TCEQ Answer: That will be dependent on the program and will either be incorporated via a Staff Initiated Amendment (SIA) or Dovetailed with an existing permit action.

Adjournment

Pretreatment Stakeholder Group (PSG) website:

https://www.tceq.texas.gov/permitting/wastewater/pretreatment/pretreatment_stakeholder_group.html

All Stakeholder meetings are available by webcast by going to

<https://www.tceq.texas.gov/agency/decisions/agendas/webcasts.html> or at

<https://www.youtube.com/user/TCEQNews>

To be added to the TCEQ Pretreatment stakeholder list for future meetings and correspondence, please email your request to WOPret@tceq.texas.gov.

Thank you.