TCEQ Texas Pollutant Discharge Elimination System (TPDES)

Pretreatment Program Stakeholder Meeting

September 15, 2022 - 1:00 pm – 4:00 pm

TCEQ Campus – Building E, Agenda Room

12100 Park 35 Circle, Austin, TX 78753

FINAL AGENDA

**Welcome and Introductions** Erika Crespo

# **Pretreatment Program Implementation Updates** Colleen Cook

* **TCEQ FY23 Pretreatment Audits**

*Common violations discovered during the last two audit years:*

*#1 – Failure to follow the approved program’s Enforcement Response Plan/Guide (ERP/ERG). As a program, you want to make sure that if a violation is identified you are following the enforcement responses and time frames identified in your ERP and ERG. As you all know, a big component of TCEQ audits are the industrial user file reviews and reviewing violations that were identified to ensure the CA issued the appropriate response as outlined in the ERP.*

*#2 – Failure to submit modifications to TCEQ. The majority of these violations were for failure to submit the Dental OTCR Form as a nonsubstantial modification. However, any time a change or update to your program is made, a modification should be submitted to TCEQ for review and approval.*

*#3 - Failure to evaluate SNC for all SIUs as required by 40 CFR §403.8(f)(2)(viii) (A) – (H). Please note the evaluation will need to be done for all criteria A-H and properly documented.*

*#4 – Failure to conduct WWTP influent and effluent monitoring as required by TPDES permit. For example, we occasionally see missing pollutants from analysis. Please keep in mind that CA’s must keep current with the pollutant list in all regulations as the TPDES permit may have outdated tables if the permit has not been renewed recently. We have also seen instances of CA’s monitoring results not matching the required frequency dictated in their TPDES permit.*

*#5 – Failure to review with sufficient care reports and/or chain of custody (COC) forms to identify noncompliances. As a CA, you want to ensure that all monitoring results are being reviewed timely (as dictated in your ERP) and efficiently in order to identify violations.*

*#6 - Failure to ensure all reports submitted by IUs contain the required certification statements and signatures from the correct and authorized representative.*

*#7 - Failure to include all applicable effluent limits in the IU permit (categorical standards, local limits, etc.).*

*Updates to FY2023 Audit Process:*

*We will be moving forward with a hybrid audit approach for the 2023 fiscal year.*

*The new hybrid audits will consist of pre-audit electronic industrial user file requests. Pre audit IU file requests allow us to perform file reviews prior to the field audit and increase the scope of the IU universe reviewed. Requests for electronic copies of IU documents will be made prior to the start of the audit.*

*Additionally, the audit will also consist of in person initial interviews and site visits but implement a virtual exit meeting. Internet accessibility will be required to ensure staff have the ability to research and communicate with staff back in office and continue to access pre-audit files. If no internet accessibility available, please let us know PRIOR to the start of the audit so we can plan accordingly.*

* **Technically-Based Local Limit Redevelopment Data Requirements**

*Historically, TCEQ has required that POTWs conduct a 4 – 7 consecutive day sampling event to collect the data that will be used during TBLL redevelopment calculations. However, in response to feedback from programs and to be consistent with the 2004 EPA Local Limits Guidance, TCEQ may now choose to accept routine monitoring data, in lieu of (or in addition to) conducting a seven consecutive day sampling event, for these calculations. This data will have to meet a certain standard in order to be accepted and used for TBLL calculations. If a program is considering re-developing and is interested in pursuing using routine monitoring data, please reach out to TCEQ staff to discuss prior to submission. We want to make sure CAs are clear on all of the expectations as we roll out this alternative option.*

*Criteria that must be met in order to utilize routine monitoring data in the TBLL redevelopment calculations include:*

*#1: The POTW must have conducted a recent (within the last 12 months) initial influent scan to identify their pollutants of concerns (POCs) for the WWTPs. This requirement is not changing and is the same as it’s always been.*

*#2: The POTW must have conducted routine monitoring events at the WWTPs meeting the minimum frequency of routine monitoring outlined in EPA’s 2004 Local Limit Guidance. EPA states that ongoing evaluations of TBLLs (redevelopments) can use sampling data collected at the minimum frequencies in Table 4-2.*

*#3: At this time, a minimum of eight (8) routine sampling events (data points) for influent and effluent sampling locations must be used. All routine monitoring data to be used must be from within the past three years. For example: a WWTP that performs quarterly* *influent/effluent monitoring (four sampling events per year), would be required to submit a minimum of two years of routine monitoring data, for a total of eight sampling events.*

*#4: the Sampling and analytical procedures shall be in accordance with guidelines established in 40 CFR Part 136, as amended; or as suggested in Tables E-1 and E-2 of the Procedures to Implement the Texas Surface Water Quality Standards (RG-194), June 2010, as amended and adopted by the TCEQ. This is not a new requirement and hopefully isn’t a surprise.*

*#5: All routine monitoring data the CA wishes to use for TBLL calculations must have been collected and analyzed in accordance with TBLL data requirements, as outlined in the 2004 EPA Local Limits Guidance.  This means all laboratory reports and associated chain of custody (COC) forms must be submitted for all the routine monitoring events the CA wishes to use in the TBLL calculations. Additionally, the data being proposed for TBLL calculation should be the same results reported in the annual report submissions. If any data is found to be deficient, the TCEQ may require additional monitoring.*

*#6: The CA should ensure that the most representative data of actual/current conditions at the facility are being used for the TBLL calculations. Conditions at the WWTP should have remained consistent throughout the time frame associated with the data being used. In order to utilize routine monitoring data, the CA should certify that the data is still representative of current conditions at the facility and should include a detailed justification for the selection of sampling events used for data. Particularly if the CA wishes to omit a sampling event from within the timeframe being used, an explanation for why that sampling event and results were not representative of typical conditions at the facility will be required. However, please keep in mind there should have been no significant changes at the WWTP or within the POTW from the start of the timeframe associated with the routine monitoring data. If there have been recent changes at the facility, the TCEQ may determine that this routine data collected from previous years may not be representative of the current and future operating conditions at the facility.*

*#7: WWTPs will still be required to conduct domestic and commercial sampling events throughout the POTW’s service area, in order to obtain the representative background data needed for TBLL calculations.*

* **Status Update for Substantial Program Modifications**  Bridget Malone

*Next backlog project is the completion and final approval of the pending Substantial Modifications, which will incorporate the technically completed approved programs into the TPDES permit through either a staff-initiated amendment or the dovetail process using a pending permit application already in house. ​*

*Over half of the modifications have been completed or we are currently processing a TPDES permit action to finalize and complete the modification approval. We started with 19 pending modifications and currently only have 8 remaining that we may need to initiate a permit action for (or incorporate into a dovetail review.*

* **TPDES Permit Action Process**

*As part of streamlining our approval process for substantial modifications we are updating what is required to be submitted with the final package. Currently we request 4 hardcopies of the final modified program in the tech complete notification. However, moving forward we will only be requesting two hardcopies and one electronic copy.*

*Additionally, the Pretreatment team has streamlined our internal TPDES permitting process in order to approve and incorporate these sub mods in a timelier manner. Previously this process averaged approximately 180+ days once the permit amendment was initiated, however, our most recent SIA that was initiated is on track to be sent to the Chief Clerk’s Office for mailout of the draft permit package within 60 days of initiation of the permit action. This is more than a 50% improvement on processing time. ​*

*We will now be requesting a digital copy of the final sub mod submittal. The most efficient and secure way to submit documents electronically is through TCEQ’s FTPS website. This site will also be utilized during our audits for file reviews. The FTPS sharing site is a great place to quickly submit addendums or revisions to your documents and is best used to upload large files that may be too big to send through email, for example an entire digital copy of your program, if you have one available. The process is very easy, once you’ve created an account and done the process a few times. This presentation and FTPS links will be posted to the Pretreatment Stakeholders webpage.*

* **Status of New Developing Pretreatment Programs**

*At the start of 2022 we had 8 new developing programs (NDP) submittals waiting approval, but one pending developing program has recently been completed and approved. There are now a total of 7 remaining new developing programs awaiting review and Pretreatment staff have already picked up the next one to begin the technical review.*

*Staff will be reaching out to the developing program contacts to confirm that we have all of the updated items and elements for the program review on file. During the review, we plan to implement a collaborative process, in which we will schedule either Teams meetings or conference calls to go over any deficiencies, so they can be resolved in real-time. These joint-working sessions reduce the back-and-forth correspondence and provides an opportunity for us to address and resolve any questions or concerns as they arise.*

* **Title VI Requirements**

*TITLE VI refers to the alternative language requirements for public notice found in Chapter 39 of the Texas Administrative Code. This new implementation procedure is the result of the informal resolution with EPA to meet Title VI requirements. So, how does this effect Pretreatment? Title VI is applicable to the permit actions required to incorporate pretreatment modifications into the approved programs (SIAs and dovetails).*

*How does this affect the CAs? The newly implemented review process does not add any additional requirements, it simply updates the step in the process where the NAPD translation by the permittee takes place. [NAPD is an acronym and just means Notice of Application and Preliminary Decision and is the public notice required during a permit action.] Now, it will be during the DRAFT PERMIT ACCEPTANCE STAGE of the review, the permittee will be provided with the NAPD and required to provide the translated notice with the acceptance of the draft permit. Most of the language will be translated in the template provided, HOWEVER, specific details related to the WWTP may need to be translated by the permittee. Again, this will be requested during the permittee’s review of the draft permit language and the permittee is required to submit BACK to the TCEQ, a translated version of the NAPD, along with any comments on the draft permit package*

# **Regulatory Updates** Jessica Alcoser

* **Federal Revisions to EPA’s PFAS Final Rule**

*In October 2021, EPA announced the Agency’s PFAS Strategic Roadmap – laying out a whole agency approach to addressing PFAS. The roadmap included numerous action items for the Office of Water, four of which directly affect wastewater. EPA has already taken action on a few of these items which we will discuss in the next few slides.*

*The first item on the EPA’s roadmap will directly affect industrial facilities and pretreatment programs:*

*The EPA plans to 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. Suggestion to CAs: Identify IUs who manufacture, use or otherwise process PFAS substances. Ensure IUs are aware of PFAS Final Rule and upcoming revisions to categorical standards.*

*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.*

*The EPA also intends to 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 is sufficient data to initiate a potential rulemaking.*

*In addition to the 9 industrial categories identified, the plan includes the Monitoring of 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.*

*In more recent news, EPA has announced progress on three of the action items for the OW:*

1. *In addition to EPA Draft Method 1633, EPA is also publishing a new method that can broadly screen for the presence of PFAS in water at the part per billion level. EPA’s Draft Method 1621 has successfully completed single laboratory validation. Multi-laboratory validation took place this summer and EPA intends to publish an updated version of the method later this year.*
2. *EPA has also issued a memo (Addressing PFAS Discharges in EPA-Issued NPDES Permits and Expectations Where EPA is the Pretreatment Control Authority) which provides instructions for monitoring provisions, analytical methods, the use of pollution prevention, and best management practices to address discharges of PFAS. EPA also plans to issue new guidance to state permitting authorities to address PFAS in NPDES permits in a future action.*
3. *EPA has proposed the first aquatic life criteria for PFOA and PFOS—two of the most well-studied chemicals in this group. The criteria are intended to protect aquatic life in the United States from short-term and long-term toxic effects of PFOA and PFOS. Following the comment period, EPA intends to issue final PFOA and PFOS recommended criteria, considering public comments and any new toxicity data. States and Tribes may consider adopting the final criteria into their water quality standards or can adopt other scientifically defensible criteria that are based on local or site-specific conditions.*

* **2019 Hazardous Waste Pharmaceutical Final Rule**

*The RCRA Hazardous Waste Pharmaceuticals Final Rule, which bans the introduction of hazardous waste pharmaceuticals (HWPs) into the sewer, went into effect on August 21, 2019. The 2019 rule prohibits all healthcare facilities and reverse distributors from disposing of HWPs down the drain in all states, territories, and in Indian Country. In addition to the prohibition, EPA strongly discourages the sewering of any pharmaceutical, with very few exceptions, by residents or by any type of facility.*

*Two fact sheets on this sewer ban were published by EPA in April of this year. One is an introductory fact sheet aimed at a general audience and the other is directed at POTWs. The introductory fact sheet covers what types of healthcare facilities must comply with the sewer ban, as well as what pharmaceuticals are considered hazardous and subject to the sewer ban. The SECOND fact sheet for POTWs covers who is responsible for enforcing the sewer prohibition and how control authorities may adapt their pretreatment programs to enforce this rule. Pdf versions of these fact sheets also contain links to additional information and can be accessed from the Final Rule page at EPA dot gov.*

**Questions & Answers** Colleen Cook

1. *Fiscal Year 2023 Pretreatment Program Audits*

*No questions from in-person attendees.*

1. *Technically-Based Local Limit Redevelopment Data Requirements*

*Question: Does the Pretreatment Team have a draft of the SOP and can stakeholders have an opportunity to suggest edits?*

*Answer: Yes, the team should be able to provide a draft of the SOP for stakeholder input.*

*Question: For determining pollutants of concern (POCs), is TCEQ addressing PFAS or other emerging pollutants like QACs?*

*Answer: We will need to do some research into these emerging POCs. The team will reassess its procedures when standards are developed for the State.*

1. *TCEQ File Transfer System for Submittals*

*Question: Can annual reports be submitted through the FTPS?*

*Answer: Yes, electronic copies of annual reports can be submitted through the FTPS., although hardcopies are still required. The pretreatment team can begin reviewing submittals while waiting for the hardcopy. Nonsubstantial modifications can also be submitted on the FTPS, but a hardcopy is still required.*

1. *New Developing Pretreatment Programs*

*No questions from in-person attendees.*

1. *Title VI Requirements*

*No questions from in-person attendees.*

1. *Regulatory Updates*

*Comment: WEAT will be submitting an updated letter sometime next week about the updated TCEQ MALs as it relates to pretreatment.*

*Comment: Several of my clients are interested in a possible workgroup for TBLL SOPs and the TPDES influent/effluent monitoring requirements.*

*TCEQ Response: We could perhaps include a TBLL workgroup as part of the stakeholder group meetings. Regarding, influent/effluent monitoring, even though the decision has been made at a higher level to not go forward with monitoring exemptions, we are willing to keep the conversation going between the team and stakeholders.*

# **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 Outreach@tceq.texas.gov.

Thank you.