

TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM

CHAPTER 4

PRETREATMENT PROGRAM DESCRIPTION

A. INTRODUCTION

Primary responsibility is to operate and manage a program in accordance with the requirements of 40 CFR Part 403 as adopted in 30 TAC Chapter 315 to properly regulate Publicly Owned Treatment Works (POTWs) and both categorical and non-categorical Significant Industrial Users (SIUs). The Texas Water Code, §26.047, provides TNRCC with the authority to require a pretreatment program for any POTW and require an Industrial User (IU) to obtain a permit to discharge into a POTW. TNRCC will act as the Approval Authority for POTWs with pretreatment programs. The Pretreatment Program will be managed by the Pretreatment Team in the Wastewater Permits Section of the Water Quality Division. Additional responsibilities and detailed information on the TNRCC pretreatment program relating to enforcement are described in Section F of this chapter and in Chapter 6. All references to 40 CFR Part 403 specified below are adopted by reference in 30 TAC Chapter 315.

B. GENERAL CONSIDERATIONS

Pretreatment regulations as authorized by the Clean Water Act (CWA) and found in 40 CFR Part 403 are established primarily to prevent the introduction of pollutants into POTWs by Industrial Users that may interfere with, pass through, or contaminate the sludge of a POTW. The primary responsibility of the Pretreatment Team will be to operate and manage a program in accordance with the requirements of 40 CFR Part 403 to properly regulate POTWs and both categorical and non-categorical SIUs. Categorical IUs will be regulated in accordance with Pretreatment Standards for Existing Sources (PSES) and Pretreatment Standards for New Sources (PSNS) as found in Effluent Guidelines and Standards for various industries in 30 TAC §305.541.

Pretreatment programs will be required for all cities with a combined POTW flow greater than five (5.0) million gallons per day (MGD) and receiving from IUs pollutants which pass through or interfere with the operation of the POTW or are otherwise subject to Pretreatment Standards. TNRCC may require that a POTW with an aggregate flow of five (5) MGD or less develop a POTW pretreatment program where the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge or other circumstances warrant program development in order to prevent interference with the POTW or pass through. The Pretreatment Team will establish and maintain a complete inventory of POTWs with pretreatment programs.

C. EQUIVALENT LIMITS & COMBINED WASTESTREAM FORMULA

The Pretreatment Team will also review pretreatment program procedures to evaluate the proper calculation of Equivalent Limits (40 CFR §403.6(c)) and the proper use of the Combined Waste Stream Formula (40 CFR §403.6(e)) during on-site inspections. Dilution will not be allowed as a substitute for proper pretreatment (40 CFR §403.6(d)). TNRCC will review monitoring reports from categorical IUs contributing to POTWs without approved pretreatment programs to ensure that equivalent limits and the combined wastestream formula have been properly applied, if applicable, and that dilution has not been used in lieu of proper pretreatment according to 40 CFR §403.6(c), (e) and (d) respectively. Limits in categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the Standard according to 40 CFR §403.6 (c)(1).

D. LOCAL LIMITS AND REMOVAL CREDITS

Each POTW developing a Pretreatment Program pursuant to 40 CFR §403.8 will be required to develop and enforce specific local limits applicable to categorical and non-categorical SIUs to implement the General and Specific Prohibitions listed in 40 CFR §403.5(a)(1) and (b). Each POTW with an approved program shall

continue to develop these limits as necessary and effectively enforce such limits. Pursuant to 40 CFR §403.5(c)(2), all other POTWs shall, in cases where pollutants contributed by IUs result in interference or pass through, and such violation is likely to recur, develop and enforce specific effluent limits for IUs, and all other users, as appropriate. Such local limits, together with appropriate changes in POTW Treatment Plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's TPDES permit or sludge use or disposal practices.

The Pretreatment Team will reevaluate new and existing approved programs for the proper calculation of local limits. POTWs will be required to develop local limits, or to recalculate local limits as necessary, as required by 40 CFR §403.5(c)(1). Removal Credits will be processed, reviewed and granted or denied in accordance with 40 CFR §403.7.

POTWs will be required to develop and evaluate local limits based on EPA's *Guidance Manual on the Development and Implementation of Local Discharge Limitations Under the Pretreatment Program* (December 1987) and EPA's *Region 6 Technically Based Local Limits Development Guidance* (October 12, 1993). TNRCC will require POTWs to utilize future EPA national and regional policies and guidance to the extent there is no conflict with Texas statutes, a specific state policy, or guidance adopted by TNRCC. TNRCC agrees to consider EPA national and regional policies and guidance when adopting corresponding or related state policies and guidance and will avoid state policies or guidance that would conflict with §402(b) of the CWA or applicable federal regulations or limit TNRCC's ability to implement the NPDES pretreatment program.

E. VARIANCE AND CATEGORICAL DETERMINATIONS

TNRCC will also make written determinations on all category classification requests made in accordance with 40 CFR §403.6(a) from either SIUs or POTWs. TNRCC will forward its determination with a copy of the request and supporting information to EPA for concurrence. If EPA does not object to or modify the TNRCC determination within sixty (60) days of receipt, the determination is final. If EPA modifies the decision, then

EPA's decision is final, and a copy of the final decision will be sent to the applicant and TNRCC. TNRCC will also review requests by SIUs or POTWs for Fundamentally Different Factor (FDF) variances as allowed by Section 301(n) of the Clean Water Act (CWA). FDF variance requests will be reviewed and recommended for approval or denied by TNRCC, but must be forwarded to EPA for final approval. EPA shall review the FDF request and prepare and transmit a response within 60 days in accordance with 40 CFR §403.13(l). EPA shall provide for a hearing on the FDF decision in accordance with 40 CFR §403.13(m).

F. TNRCC APPROVAL AUTHORITY RESPONSIBILITIES

In its capacity as Approval Authority, as defined in 40 CFR §403.3(c), TNRCC will evaluate the performance of approved POTW pretreatment programs. This evaluation will employ both on-site and remote monitoring practices to review the ongoing status of the programs and will be conducted routinely. Specific tools which may be employed will include, but may not be limited to, the review of pretreatment-related reports required by the TPDES permit or the regulations, on-site pretreatment compliance inspections, and pretreatment program audits. The inspections and audits will generally be conducted by TNRCC personnel, however, EPA may, at its discretion, and consistent with the terms of the MOA, conduct independent inspections and/or audits. All information gathered in such inspections and audits will be taken into consideration in any TNRCC evaluation of pretreatment program compliance.

As a specific requirement of the TPDES permit, POTWs operating an approved pretreatment program are required to submit a report annually, detailing the status of the pretreatment program. This report must include, among other data, information on all SIUs regulated by the POTW, their compliance status, a listing of all IUs determined to be in significant noncompliance with pretreatment requirements at any time during the year, and treatment plant influent, effluent and monitoring data. Further, in advance of permit reissuance, the POTW is required to conduct an evaluation of the adequacy of its local limits and recalculate the local limits, as needed, to reflect any changes in the nature of industrial wastestreams it accepts, receiving stream designation, or

wastewater treatment processes.

On-site evaluations of POTW pretreatment programs will generally be in the form of pretreatment compliance inspections (PCIs) and pretreatment program audits. EPA guidance provided in the *Pretreatment Compliance Inspection and Audit Manual for Approval Authorities* (July 1986) or any revisions thereto will be considered in establishing procedures and requirements for conducting both types of evaluations. TNRCC will adopt the PCI and audit forms currently in use by EPA Region 6, but reserves the right to modify the forms as necessary to support program needs. EPA will be notified of, and given the opportunity to comment on, any substantive modifications to the PCI or audit forms.

TNRCC will perform audits for approximately twenty (20)% of approved pretreatment programs each year to attain the goal of auditing each approved pretreatment program at least once in the five (5) year cycle of the permit. Audit coverage may be less, as described in the CWA Section 106 program grant (PPG).

PCIs will be performed annually for a selected number of POTWs with approved pretreatment programs as described in Chapter 6 of the Program Description.

Pretreatment audits and pretreatment compliance inspections (PCIs) of approved pretreatment programs will include an evaluation of a POTW's compliance with its approved program procedures for taking action against significant violations by industrial users. The criteria for an industrial user found to be in significant noncompliance is described below. In accordance with the terms and conditions of its pretreatment program, the POTW shall provide for annual public notification of industrial users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements. TNRCC will require a POTW to publicize this information in the largest daily newspaper published in the municipality in which the POTW is located.

Inspections of industrial users (IUs) for POTWs with approved pretreatment programs will be conducted routinely by the Pretreatment Team during a pretreatment audit. During a PCI, Regional Offices will conduct inspection(s) of IUs on an as-needed basis as described in Chapter 6 of the Program Description.

G. CRITERIA FOR SIGNIFICANT NONCOMPLIANCE

By authorizing POTWs to operate approved pretreatment programs, EPA and TNRCC place primary responsibility for enforcement standards on the POTW (TPDES permittee). Only when the POTW has failed to take appropriate action to ensure compliance by industrial users should TNRCC, as the approval authority, intervene, and then only as prescribed in §309(f) of the CWA. The criteria listed below apply to all significant industrial users. The POTW or Control Authority may, at its own discretion, apply this criteria to any other industrial user including retail establishments. Also, at its own discretion, the POTW may use more stringent criteria to identify significantly violating industrial users in its municipality. An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

1. chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
3. any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
4. discharge of a pollutant to the POTW which has caused an "imminent endangerment" to the human health, welfare and/or to the environment; or has resulted in the POTW's exercise of

- its emergency authority under 40 CFR §403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
5. failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 6. failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 7. failure to accurately report a noncompliance;
 8. any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program; or
 9. causing or substantially contributing to any violations of the POTW's TPDES permit requirements or impairing the use or disposal of the POTW's sludge.

A significant industrial user (SIU) is defined as any industry which discharges to a POTW that:

1. is subject to categorical standards;
2. discharges a non-domestic wastestream of 25,000 gallons per day (0.025 MGD) or more;
3. contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW; or
4. has a reasonable potential, in the opinion of the POTW, to adversely affect the POTW (inhibition, pass through of pollutants, sludge contamination, endangerment of POTW workers, or known toxics in discharge).

H. TNRCC CONTROL AUTHORITY RESPONSIBILITIES

TNRCC will have oversight as Control Authority of categorical and non-categorical SIUs in areas without local pretreatment programs, modeled after current EPA practices, which will include:

1. review and evaluate semi-annual monitoring reports and any other applicable reports required under 40 CFR §403.12 submitted by categorical IUs to ensure compliance with the National categorical pretreatment standards;
2. monitor categorical and non-categorical SIUs;
3. conduct compliance inspections as necessary for categorical IUs of POTWs without approved pretreatment programs as described in Chapter 6 of the Program Description;
4. review various sources of information, which may include the Directory of Texas Manufacturers and the TNRCC enforcement case list, to identify categorical and non-categorical SIUs contributing to POTWs without approved pretreatment programs;
5. identify categorical IUs contributing to POTWs without approved pretreatment programs by collecting information from POTWs about their industrial users during field inspections;
6. determine whether any Existing Source or New Source categorical IU (as defined in 40 CFR §403.3(k)), contributing to a POTW without an approved pretreatment program, is in violation of the reporting requirements established under 40 CFR §403.12;

I. PRETREATMENT PROGRAM REVIEW AND APPROVAL

Once a new pretreatment program is submitted and complete, TNRCC will review it, with the goal of completing the review within ninety (90) days. When the Pretreatment Team has preliminarily determined to approve a program or substantial modification, the program requirements will be approved administratively by the Wastewater Permits Section before being incorporated into a POTW's TPDES discharge permit in accordance with 30 TAC §305.62(c)(2)(D)(vi). These minor permit amendments will be scheduled before the Commission for final approval, or when the matters are uncontested, will be forwarded to the executive director for signature and issuance. The Pretreatment Team will review and recommend to the Commission or executive director (for approval or denial) original and modified pretreatment program submissions, when such changes

result in the need to amend the TPDES permit. All program submissions will be reviewed in accordance with 40 CFR §§403.11 and 403.18 to determine if the submissions meet, at a minimum, the requirements of 40 CFR Part 403 and contain all necessary documentation. Pretreatment programs must be consistent with any Water Quality Management Plans before they can be approved (40 CFR §403.10(g)). Pretreatment program approval and amendments will be subject to public notice and the opportunity to conduct a public meeting consistent with 40 CFR §403.11 as referenced in 30 TAC Chapter 315.

Substantial modification requests to existing programs will be reviewed, with the goal of completing the review within ninety (90) days. Only substantial program modifications will go through the public notice process. Substantial modifications include the following criteria:

1. Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant. (Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under 40 CFR §403.5(c));
2. Changes that relax a POTW's legal authority, except for modifications that directly reflect a revision to 40 CFR Parts 403 to 471 and are reported pursuant to approval procedures for non-substantial modifications;
3. Decreases in required IU self reporting/monitoring;
4. Decreases in IU inspections or sampling by a POTW;
5. Changes in confidentiality procedures;
6. Changes to POTW control mechanisms as described in 40 CFR §403.8(f)(1)(iii); and
7. Other modifications designated as substantial modifications by TNRCC on the basis that the modification could have a significant impact on the operation of the POTW's Pretreatment

Program; could result in an increase in pollutant loadings at the POTW; or could result in less stringent requirements being imposed on Industrial Users of the POTW.

Program approvals and substantial modifications are not anticipated to affect any significant changes in a TPDES permit, its provisions, or any effluent limits of the POTW. However, program approvals or substantial modifications will be incorporated into TPDES permits by minor amendment since the changes will have already been subject to the public notice process. POTWs that do not have pretreatment programs will be reevaluated during each renewal of the facility TPDES discharge permit.

The POTW shall notify TNRCC of any non-substantial modification at least forty-five (45) days prior to implementation by the POTW, in a statement similar to that provided for in Section J of this chapter. Non-substantial (minor) modifications to existing programs will be reviewed with the goal of reaching a decision to approve or disapprove the non-substantial modification within forty-five (45) days. If TNRCC does not notify the POTW within forty-five (45) days of its decision to approve or deny the modification, or to treat the modification as substantial under this section, the POTW may implement the modification (processing times are non-jurisdictional).

J. NOTICE, HEARINGS, EPA REVIEW, AND ISSUANCE

When TNRCC has preliminarily determined that a submission meets the requirements of 40 CFR §403.9(b), and where removal allowance approval is sought in accordance with 40 CFR §§403.7(d) and 403.9(d), a public notice will be developed and sent to the POTW for publication in a newspaper regularly published and generally circulated within the county and area wherein the POTW discharge is located and within each county and area wherein persons reside who would be affected by the discharge. Public notice is not required for a non-substantial modification.

When public notice and opportunity for public comment are required, they will be in accordance with 40 CFR §403.11 as referenced in 30 TAC Chapter 315. Mailed notice will be provided to EPA, the designated

208 planning agencies, National Marine Fisheries Service (for discharges to coastal or estuary areas, or territorial seas), U.S. Fish and Wildlife Service, and Texas Parks and Wildlife Department (unless such agencies have asked not to be sent the notices). Mailed notice will also be provided to other persons required by the TNRCC rules or who in the judgment of the Commission, may be affected, including those persons requesting to be on the mailing list. Notices will provide for a thirty (30) day comment period and notice will be provided at least thirty (30) days prior to any public meeting which may be held. A public meeting, if held, will be conducted by an attorney from the Commission.

EPA may provide written objections within thirty (30) days of receipt of the public notice, as a result of the public notice. TNRCC shall not approve any pretreatment program, or significant modification thereof, if EPA has objected under 40 CFR §403.11(d).

All comments will be considered in the decision whether or not to approve the submission. All written comments shall be retained by TNRCC. The Commission staff will schedule the submission for final decision by the Commission or the Executive Director and, as necessary, will incorporate the program or modification into the TPDES permit as a minor amendment in accordance with 30 TAC §305.62(c)(2)(D). EPA shall also review a submission again if the TNRCC proposes to issue a program requirement or permit which differs from the draft originally reviewed, if either:

- the revision contains a less stringent numeric limitation;

- the revision contains an altered narrative provision or deletes a narrative provision from the draft reviewed by EPA;

- the revision adds a narrative provision that alters another provision from the draft reviewed by EPA; or

- EPA objected to the draft program requirement or permit.

EPA shall have the opportunity for re-review and the ability to provide additional comments or objections within thirty (30) days after its receipt of the proposed program or permit.

TNRCC will transfer copies of the approved or modified pretreatment programs and modified permits to EPA within thirty (30) days of the final decision on approval/issuance. TNRCC need not publish a notice of decision under 40 CFR §403.11(e) provided: the notice of request for approval under 40 CFR §403.11(b)(1) states that the request will be approved, if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change. Notices required by 40 CFR §403.11 may be performed by the POTW provided that TNRCC finds that the POTW notice otherwise satisfies the requirements of 40 CFR §403.11.