

## Summary of Comments on Draft TOGS 1.3.14 and Rationale for New York's Approach

The department received a wide range of public comments on draft Technical and Operational Guidance Series (TOGS) 1.3.14, reflecting both support for and opposition to the proposed approach for addressing emerging contaminants through the pretreatment program. Commenters expressed a diversity of opinions regarding the pace, scope, and structure of implementation.

Several commenters urged New York State to move more aggressively, recommending that the department immediately establish enforceable effluent limitations and require monitoring across all Publicly Owned Treatment Works (POTWs). These commenters emphasized the urgency of addressing threats to water quality and public health, particularly with regard to emerging contaminants that are persistent, bioaccumulative, and toxic.

In contrast, other commenters felt the department should delay action and instead wait for the U.S. Environmental Protection Agency (EPA) to develop national guidance or regulations. These commenters raised concerns about consistency with federal policies and questioned whether state-level action was premature.

A number of stakeholders expressed support for New York's intent but identified practical challenges to implementation. These challenges included:

- Limited laboratory capacity to analyze for emerging contaminants.
- The cost burden to POTWs (including analytical and track down), particularly small systems.
- Potential increases in collection system user rates due to cost increases at POTWs.
- Staffing and resource limitations at POTWs.
- A need for more technical guidance and tools to support implementation.
- The evolving nature of scientific understanding and regulatory frameworks for emerging contaminants.

### **The Department's Response and Rationale**

The department appreciates the thoughtful feedback and recognizes the complexities associated with emerging contaminant control. The department believes that the approach outlined in TOGS 1.3.14 is both measured and appropriate, given current scientific understanding and public health priorities.

New York's strategy is grounded in source control, using the existing pretreatment framework to reduce emerging contaminants before they reach POTWs. This is the most effective and cost-efficient method of protection, as many POTWs are not equipped to treat emerging contaminants that may pass through into the receiving waters or affect biosolids.

The approach in TOGS 1.3.14 also prioritizes the protection of drinking water, focusing on POTWs that discharge to waterbodies with potential downstream drinking water intakes. This targeted approach ensures that limited resources are focused where they will protect public health the most.

While the department acknowledges the barriers raised—such as lab capacity, analytical costs, and staffing at POTWs—TOGS 1.3.14 is intentionally designed to be adaptive and flexible. It allows for phased implementation, encourages partnerships, and emphasizes data collection and evaluation to inform future actions. Rather than imposing blanket requirements, TOGS 1.3.14 supports a risk-based approach and the use of existing water quality guidance values (TOGS 1.1.1) to develop site-specific local limits as needed.

Finally, while federal leadership is important, emerging contaminants pose immediate challenges that require action at all levels. Waiting for EPA action could delay necessary protections for drinking water and aquatic ecosystems. The department's proactive stance positions New York State as a leader in water quality protection and aligns with the broader goals of the Clean Water Act.

In summary, the department's approach in TOGS 1.3.14 balances urgency with practicality, uses existing science-based tools, and remains responsive to stakeholder needs. The State is committed to working with POTWs and their communities to ensure successful implementation of TOGS 1.3.14, while protecting public health and water quality.