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Rulemaking Hearing Rule(s) Filing Form

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Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Board of Water Quality, Oil and Gas
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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0400-40-14	Pretreatment Requirements
Rule Number	Rule Title
0400-40-14-.01	Purpose and Applicability
0400-40-14-.03	Definitions
0400-40-14-.05	National Pretreatment Standards: Prohibited Discharges
0400-40-14-.06	National Pretreatment Standards: Categorical Standards
0400-40-14-.07	Removal Credits
0400-40-14-.08	Pretreatment Program Requirements: Development and Implementation by WWF
0400-40-14-.11	Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits
0400-40-14-.12	Reporting Requirements for WWF's WWFs and Industrial Users
0400-40-14-.18	Modification of WWF Pretreatment Programs
0400-40-14-.19	Appendices to Chapter 0400-40-14

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0400-40-14
Pretreatment Requirements

Amendments

The Table of Contents to Chapter 0400-40-14 Pretreatment Requirements is amended by deleting it in its entirety and substituting instead the following:

Table of Contents

0400-40-14-.01 Purpose and Applicability
0400-40-14-.02 Objectives of General Pretreatment Regulations
0400-40-14-.03 Definitions
0400-40-14-.04 State of Local Law
0400-40-14-.05 National Pretreatment Standards: Prohibited Discharges
0400-40-14-.06 National Pretreatment Standards: Categorical Standards
0400-40-14-.07 Removal Credits
0400-40-14-.08 Pretreatment Program Requirements: Development and Implementation by WWF
0400-40-14-.09 WWF Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval
0400-40-14-.10 Reserved
0400-40-14-.11 Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits
0400-40-14-.12 Reporting Requirements for ~~WWF's~~ WWFs and Industrial Users
0400-40-14-.13 Variances from Categorical Pretreatment Standards for Fundamentally Different Factors
0400-40-14-.14 Confidentiality
0400-40-14-.15 Net/Gross Calculation
0400-40-14-.16 Upset Provision
0400-40-14-.17 Bypass
0400-40-14-.18 Modification of WWF Pretreatment Programs
~~0400-40-14-.19 Appendices to Chapter 0400-40-14~~
~~Appendix A — Reserved~~
~~Appendix B — Reserved~~
~~Appendix C — Reserved~~
~~Appendix D — Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula~~
~~Appendix E — Sampling Procedure~~
~~Appendix F — Reserved~~
~~Appendix G — Pollutants Eligible for a Removal Credit~~

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Rule 0400-40-14-.01 Purpose and Applicability is amended by deleting it in its entirety and substituting instead the following:

0400-40-14-.01 Purpose and Applicability

- (1) This chapter establishes responsibilities of State, and local government, industry, and the public to implement National Pretreatment Standards to control pollutants ~~which that~~ pass through or interfere with treatment processes in domestic wastewater facilities (WWF) or ~~which that~~ may contaminate sewage sludge.
- (2) This chapter applies:
 - (a) To pollutants from non-domestic sources covered by Pretreatment Standards ~~which that~~ are discharged into or transported by truck or rail or otherwise introduced into WWFs as defined in Rule 0400-40-14-.03;

- (b) To WWFs ~~which that~~ receive wastewater from sources subject to National Pretreatment Standards; and
- (c) To any new or existing source subject to Pretreatment Standards.

National Pretreatment Standards do not apply to sources ~~which that~~ discharge to a sewer ~~which that~~ is not connected to a WWF Treatment Plant.

(3) Electronic Reporting

- (a) This chapter requires the submission of forms developed by the Commissioner for a person to comply with certain requirements, including, but not limited to, making reports and submitting monitoring results. The Commissioner may make these forms available electronically and, if submitted electronically, then that electronic submission shall comply with the requirements of Chapter 0400-01-40.
- (b) Electronic submission is required when available unless waived by the Commissioner in accordance with 40 C.F.R. § 127.15.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Rule 0400-40-14-.03 Definitions is amended by deleting it in its entirety and substituting instead the following:

0400-40-14-.03 Definitions

- (1) ~~For~~ In addition to the meanings provided in the Water Quality Control Act of 1977, T.C.A. § 69-3-103, for the purposes of this chapter:

“Administrator” means the Administrator of the United States Environmental Protection Agency.

“Approval Authority” means the Division of Water Resources Director or ~~his/her~~ the Director's representative(s).

“Approved WWF Pretreatment Program” or “Program” or “WWF Pretreatment Program” means a program administered by a WWF that meets the criteria established in this chapter and ~~which~~ has been approved by the Division.

“Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subparagraph (1)(a) and paragraph (2) of Rule 0400-40-14-.05. BMPs also ~~include~~ includes treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“Blowdown” means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering ~~practice~~ practices.

“Bypass” means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

“Control Authority” ~~refers to~~ means the WWF with an approved pretreatment program or the Approval Authority if the WWF does not have an approved pretreatment program.

“Control mechanism” means a permit, order, or similar means of establishing enforceable requirements.

“Director” means the ~~chief administrative officer~~ director of the Division.

“Discharge” means either a direct ~~discharge to waters of the state~~ addition of pollutants to waters from a source or an indirect discharge depending on the context in which it is used.

“Division” means the Tennessee Division of Water Resources, or the Division’s successor.

“Effluent limitation” means any restriction established by the ~~commissioner~~ board or the Commissioner, on quantities, rates, and concentrations of chemical, physical, biological and other constituents ~~which that~~ are discharged into waters or adjacent to waters.

“Effluent limitations guidelines” means any effluent limitations guidelines issued by the Administrator pursuant to section 304(b) of the Federal Clean Water Act.

“Environmental Protection Agency” or “EPA” means the United States Environmental Protection Agency.

“EPA Water Management Division Director” means the Director of the Water Management Division within the appropriate Regional office of the Environmental Protection Agency or ~~this person’s~~ the director’s delegated representative.

“Federal Clean Water Act” means the ~~Federal~~ federal Water Pollution Control Act (commonly referred to as the Clean Water Act) as amended, 33 U.S.C. 1251, et seq.

“General control mechanism” means a control mechanism that authorizes activity by more than one entity.

“Indirect Discharge” means the introduction of pollutants into a WWF from any non-domestic source.

“Industrial User” or “User” means a source of indirect discharge.

“Interference” means a discharge ~~which that~~, alone or in conjunction with a discharge or discharges from other sources, ~~inhibits~~ inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or the collection system.

“National Pretreatment Standard,” “Pretreatment Standard,” or “Standard” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the ~~Federal~~ federal Clean Water Act, ~~which that~~ applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to Rule 0400-40-14-.05.

“New ~~Source~~ source” means

(a) ~~any~~ Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the ~~Federal~~ federal Clean Water Act ~~which that~~ will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether ~~these~~ the production or wastewater generating processes are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source ~~should be~~ are considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of part (a)2 or 3 of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin as part of a continuous onsite construction program:
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities ~~which that~~ is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment ~~which are~~ intended to be used in its operation within a reasonable time. Options to purchase or contracts ~~which that~~ can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

“Noncontact cooling water” means water used for cooling ~~which that~~ does not come into direct contact with any raw material, intermediate product, water product or finished product.

“NPDES Permit” or “Permit” means a permit issued to a WWF pursuant to section 402 of the ~~Federal~~ federal Clean Water Act and T.C.A. § 69-3-108.

“Pass Through” means a discharge ~~which that~~ exits the WWF into waters of the ~~United States state~~ in quantities or concentrations ~~which that~~, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit (including an increase in the magnitude or duration of a violation).

“Person” means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

“Point source” means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

“Pollutant” means ~~dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water~~ sewage, industrial wastes, or others wastes.

~~“Pollution” means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.~~

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a WWF. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by paragraph (4) of Rule 0400-40-14-.06. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the WWF. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with paragraph (5) of Rule 0400-40-14-.06.

“Pretreatment requirements” means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

“Process ~~waste water wastewater~~” means any water ~~which that~~, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

“Process ~~waste-water~~ wastewater pollutants” means pollutants present in process ~~waste-water~~ wastewater.

“Regional Administrator” means the regional administrator of the United States ~~environmental protection agency~~ Environmental Protection Agency whose region includes Tennessee, or any person succeeding to the duties of this official.

“Severe property damage” means substantial physical damage to property, damage to the treatment facilities ~~which that~~ causes them to become inoperable, or substantial and permanent loss of natural resources ~~which that~~ can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

~~“Significant Industrial User” means:~~

(a) ~~Except “Significant Industrial User” means, except~~ as provided in subparagraphs (b) and (c) of this definition, ~~the term Significant Industrial User means:~~

1. All industrial users subject to Categorical Pretreatment Standards under 40 ~~CFR C.F.R.~~ § 403.6 and 40 ~~CFR C.F.R.~~ chapter I, subchapter N; and
2. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the WWF (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up ~~5~~ five percent or more of the average dry weather hydraulic or organic capacity of the WWF treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement (in accordance with subparagraph (6)(f) of Rule 0400-40-14-.08).

(b) The Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under Rule 0400-40-14-.06 and 40 ~~CFR C.F.R.~~ chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

1. ~~the~~ The Industrial User, prior to Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
2. ~~the~~ The Industrial User annually submits the certification statement required in paragraph (17) of Rule 0400-40-14-.12 together with any additional information necessary to support the certification statement; and
3. ~~the~~ The Industrial User never discharges any untreated concentrated wastewater.

(c) Upon a finding that an ~~industrial-user~~ Industrial User meeting the criteria in part (a)2 of this definition has no reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an ~~industrial-user~~ Industrial User or WWF, and in accordance with subparagraph (6)(f) of Rule 0400-40-14-.08, determine that such ~~industrial-user~~ Industrial User is not a ~~significant industrial-user~~ Significant Industrial User.

“Source” means any activity, operation, construction, building, structure, facility, or installation from which there is or may be the discharge of pollutants.

“Standard of performance” means any restriction established by the Administrator pursuant to section 306 of the Federal Clean Water Act on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are or may be discharged from new sources into waters.

“Submission” means:

(a) A request by a WWF for approval of a Pretreatment Program to the Director; or

- (b) A request by a WWF to the Director for authority to revise the discharge limits in categorical Pretreatment Standards to reflect WWF pollutant removals.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

“WWF Treatment Plant” means that portion of the WWF which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

“Waters” means any and all water, public or private, on or beneath the surface of the ground, that are contained within, flow through, or border upon Tennessee or any portion thereof, except those bodies of water confined to and retained within the limits of private property in single ownership that do not combine or effect a junction with natural surface or underground waters.

“Wastewater Facility” or “WWF” means any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, ~~which that~~ is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF Treatment Plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, ~~which that~~ has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

- (2) For the purposes of this chapter, the following abbreviations shall have the following meanings:

BOD5 means five-day biochemical oxygen demand;
COD means chemical oxygen demand;
TOC means total organic carbon;
TDS means total dissolved solids;
TSS means total suspended nonfilterable solids;
kw means kilowatt(s);
kwh means kilowatt hour(s);
Mw means megawatt(s);
Mwh means megawatt hour(s);
hp means horsepower;
mm means millimeter(s);
cm means centimeter;
m means meter(s);
in means inch;
ft means foot (feet);
l means liter(s);
cu m means cubic meter(s);
k cu m means 1000 cubic meter(s);
gal means gallon(s);
cu ft means cubic foot (feet);
mg means milligrams(s);
g means gram(s);
kg means kilograms(s);
kkg means 1000 kilogram(s);
lb means pound(s);
sq m means square meter(s);
ha means hectare(s);
sq ft means square foot (feet); and
ac means acre(s)

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (b) of paragraph (3) of Rule 0400-40-14-.05 Pretreatment Standards: Prohibited Discharges is

amended by deleting it in its entirety and substituting instead the following:

- (b) All other ~~WWF's~~ WWFs shall, in cases where pollutants contributed by User(s) result in Interference or Pass-Through, and such violation is likely to recur, develop and enforce specific effluent limits for Industrial User(s), and all other users, as appropriate, which, together with appropriate changes in the WWF Treatment Plant's facilities or operation, are necessary to ensure renewed and continued compliance with the WWF's NPDES permit or sludge use or disposal practices.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (i) of paragraph (3) of Rule 0400-40-14-.06 National Pretreatment Standards: Categorical Standards is amended by deleting it in its entirety and substituting instead the following:

- (i) Any Industrial User operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Control Authority within two ~~(2)~~ business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the ~~long-term~~ long-term average production rate.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (5) of Rule 0400-40-14-.06 National Pretreatment Standards: Categorical Standards is amended by deleting it in its entirety and substituting instead the following:

- (a) Alternative limit calculation.

For purposes of these formulas, the "average daily flow" means a reasonable measure of the average daily flow for a 30-day period. For new sources, flows shall be estimated using projected values. The alternative limit for a specified pollutant will be derived by the use of either of the following formulas:

1. Alternative concentration limit.

where

C_T =the alternative concentration limit for the combined wastestream.

C_i =the categorical Pretreatment Standard concentration limit for a pollutant in the regulated stream i.

F_i =the average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D =the average daily flow (at least a 30-day average) from: (a) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an Industrial User's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Control Authority, upon application of the Industrial User, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Control Authority, the Industrial User must provide engineering, production, sampling and analysis and such other information so that the Control Authority can make its determination; or (b) sanitary wastestreams where such streams are not regulated by a Categorical Pretreatment Standard; or (c) from any process wastestreams which were or could have been entirely exempted from categorical Pretreatment Standards pursuant to paragraph 8 of the NRDC v. Costle Consent Decree (12 ERC 1833) for one or more of the following reasons (see appendix D of this chapter): (1) The pollutants of concern are not detectable in the

effluent from the Industrial User (paragraph (8)(a)(iii) of the Decree, 12 ERC at p. 1842); (2) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii) of the Decree, 12 ERC at p. 1842); (3) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii) of the Decree, 12 ERC at p. 1842); or (4) The wastestream contains only pollutants which are compatible with the WWF (paragraph (8)(b)(i) of the Decree, 12 ERC at p. 1842).

F_T =The average daily flow (at least a 30-day average) through the combined treatment facility (includes F_i , F_D and unregulated streams).

N =The total number of regulated streams.

2. Alternative mass limit.

where

M_T =the alternative mass limit for a pollutant in the combined wastestream.

M_i =the categorical Pretreatment Standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

F_i =the average flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.

F_D =the average daily flow (at least a 30-day average) from: (a) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams; provided, however, that where such streams contain a significant amount of a pollutant, and the combination of such streams, prior to treatment, with an Industrial User's regulated process wastestream(s) will result in a substantial reduction of that pollutant, the Control Authority, upon application of the Industrial User, may exercise its discretion to determine whether such stream(s) should be classified as diluted or unregulated. In its application to the Control Authority, the Industrial User must provide engineering, production, sampling and analysis and such other information so that the Control Authority can make its determination; or (b) sanitary wastestreams where such streams are not regulated by a categorical Pretreatment Standard; or (c) from any process wastestreams which were or could have been entirely exempted from categorical Pretreatment Standards pursuant to paragraph 8 of the NRDC v. Costle Consent Decree (12 ERC 1833) for one or more of the following reasons (see appendix D of this chapter): (1) The pollutants of concern are not detectable in the effluent from the Industrial User (paragraph (8)(a)(iii) of the Decree, 12 ERC at p. 1842); (2) The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph (8)(a)(iii) of the Decree, 12 ERC at p. 1842); (3) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph (8)(a)(iii) of the Decree, 12 ERC at p. 1842); or (4) The wastestream contains only pollutants which are compatible with the WWF (paragraph (8)(b)(i) of the Decree, 12 ERC at p. 1842).

F_T =The average flow (at least a 30-day average) through the combined treatment facility (includes F_i , F_D and unregulated streams).

N =The total number of regulated streams.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (1) of Rule 0400-40-14-.07 Removal Credits is amended by deleting it in its entirety and substituting instead the following:

(d) Calculation of revised discharge limits.

Revised discharge limits for a specific pollutant shall be derived by use of the following formula:

$$Y = X / (1 - r) \quad y = x / (1 - r)$$

where:

x=pollutant discharge limit specified in the applicable categorical Pretreatment Standard
r=removal credit for that pollutant as established under paragraph (2) of this rule (percentage removal expressed as a proportion, i.e., a number between 0 and 1)
y=revised discharge limit for the specified pollutant expressed in same units as x)

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (d) of paragraph (4) of Rule 0400-40-14-.07 Removal Credits is amended by deleting it in its entirety and substituting instead the following:

- (d) If a WWF receives authority to grant conditional removal credits and the Approval Authority subsequently makes a final determination, after appropriate notice, that the WWF failed to comply with the conditions in subparagraphs (b) and (c) of this paragraph, the authority to grant conditional removal credits shall be terminated by the Approval Authority and all ~~industrial~~ Industrial Users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical Pretreatment Standard(s) within a reasonable time, not to exceed the period of time prescribed in the applicable categorical Pretreatment Standard(s), as may be specified by the Approval Authority.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraphs (e) and (f) of paragraph (5) of Rule 0400-40-14-.07 Removal Credits is amended by deleting it in its entirety and substituting instead the following:

- (e) Approval Authority Review.

The Approval Authority shall review the WWF's application for authorization to give or modify removal credits in accordance with the procedures of Rule 0400-40-14-.11 and shall, in no event, have more ~~that~~ than 180 days from public notice of an application to complete review.

- (f) EPA review of State removal credit approvals.

Where the NPDES State has an approved pretreatment program, the Regional Administrator may agree in the Memorandum of Agreement under 40 ~~CFR C.F.R.~~ § 123.24(d) to waive the right to review and object to submissions for authority to grant removal credits. Such an agreement shall not restrict the Regional Administrator's right to comment upon or object to permits issued to ~~WWF's~~ WWFs except to the extent 40 ~~CFR C.F.R.~~ § 123.24(d) allows such restriction.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (a) of paragraph (7) of Rule 0400-40-14-.07 Removal Credits is amended by deleting it in its entirety and substituting instead the following:

2. The WWF has identified circumstances in which an Overflow event can reasonably be expected to occur, and has a notification or other viable plan to ~~insure~~ ensure that Industrial Users will learn of an impending Overflow in sufficient time to contain, cease or reduce Discharging to prevent untreated Overflows from occurring. The WWF must also demonstrate that it will monitor and verify the data required in part 3 of this subparagraph, to ~~insure~~ ensure that Industrial Users are containing, ceasing or reducing operations during WWF System Overflow; and

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 2 of subparagraph (b) of paragraph (7) of Rule 0400-40-14-.07 Removal Credits is amended by deleting it in its entirety and substituting instead the following:

2. The POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree, issued pursuant to the ~~Federal~~ federal Clean Water Act affecting combined sewer outflows. These requirements include, but are not limited to, any combined sewer overflow requirements that conform to the Combined Sewer Overflow Control Policy.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (a) of paragraph (6) of Rule 0400-40-14-.08 Pretreatment Program Requirements: Development and Implementation by WWF is amended by deleting it in its entirety and substituting instead the following:

3. Control through permit, order, or similar means, the contribution to the WWF by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03, this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such ~~user~~ User except as follows.
 - (i) At the discretion of the WWF, this control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:
 - (I) Involve the same or substantially similar types of operations;
 - (II) Discharge the same types of wastes;
 - (III) Require the same permit limitations;
 - (IV) Require the same or similar monitoring; and
 - (V) In the opinion of the WWF, ~~are~~ be more appropriately controlled under a general control mechanism than under individual control mechanisms.
 - (ii) To be covered by the general control mechanism, the Significant Industrial User must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with subparagraph (5)(b) of Rule 0400-40-14-.12 for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the WWF deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the WWF has provided written notice to the Significant Industrial User that such a waiver request has been granted in accordance with subparagraph (5)(b) of Rule 0400-40-14-.12. The WWF must retain a copy of the general control mechanism, documentation to support the WWF's determination that a specific Significant Industrial User meets the criteria in items (i)(I) through (V) of this part, and a copy of the User's written request for coverage for ~~3~~ three years after the expiration of the general control mechanism. A WWF may not control a Significant Industrial User through a general control mechanism where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the Combined Wastestream Formula or Net/Gross calculations (paragraph (5) of Rule 0400-40-14-.06 and Rule 0400-40-14-.15).
 - (iii) Both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:
 - (I) Statement of duration (in no case more than five years);
 - (II) Statement of non-transferability without, at a minimum, prior notification to the WWF and provision of a copy of the existing control mechanism to the new owner or operator;
 - (III) Effluent limits, including Best Management Practices, based on applicable

general pretreatment standards in this chapter, categorical pretreatment standards, local limits, and State and local law;

- (IV) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with subparagraph (5)(b) of Rule 040-40-14-.12, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards, categorical pretreatment standards, local limits, and State and local law;
- (V) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.
- (VI) Requirements to control slug discharges, if determined by the WWF to be necessary.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subpart (i) of part 6 of subparagraph (a) of paragraph (6) of Rule 0400-40-14-.08 Pretreatment Program Requirements: Development and Implementation by WWF is amended by deleting it in its entirety and substituting instead the following:

- (i) All ~~WWF's~~ WWFs shall be able to seek injunctive relief for noncompliance by Industrial Users with Pretreatment Standards and Requirements. All WWFs shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by Industrial Users of Pretreatment Standards and Requirements.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 6 of subparagraph (b) of paragraph (6) of Rule 0400-40-14-.08 Pretreatment Program Requirements: Development and Implementation by WWF is amended by deleting it in its entirety and substituting instead the following:

- 6. Evaluate whether each such Significant Industrial User needs a plan or other action to control slug discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 12 months of being designated a Significant Industrial User. For purposes of this part, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the WWF's regulations, local limits or Permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the WWF immediately of any changes at its facility affecting potential for a Slug slug discharge. If the WWF decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - (i) Description of discharge practices, including non-routine batch discharges;
 - (ii) Description of stored chemicals;
 - (iii) Procedures for immediately notifying the WWF of slug discharges, including any discharge that would violate a prohibition under paragraph (2) of Rule 0400-40-14-.05, with procedures for follow-up written notification within five days;

- (iv) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 3 of subparagraph (a) of paragraph (2) of Rule 0400-40-14-.11 Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits is amended by deleting it in its entirety and substituting instead the following:

- 3. All written comments submitted during the ~~30-day~~ 30-day comment period shall be retained by the Approval Authority and considered in the decision on whether or not to approve the Submission. The period for comment may be extended at the discretion of the Approval Authority; and

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (2) of Rule 0400-40-14-.11 Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits is amended by deleting it in its entirety and substituting instead the following:

- 1. This request for public hearing shall be filed within the ~~30-day~~ 30-day (or extended) comment period described in part (a)2 of this paragraph and shall indicate the interest of the person filing such request and the reasons why a hearing is warranted.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Paragraph (3) of Rule 0400-40-14-.11 Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits is amended by deleting it in its entirety and substituting instead the following:

- (3) Approval authority decision. At the end of the ~~30-day~~ 30-day (or extended) comment period and within the ~~90-day~~ 90-day (or extended) period provided for in paragraph (1) of this rule, the Approval Authority shall approve or deny the Submission based upon the evaluation in paragraph (1) of this rule and taking into consideration comments submitted during the comment period and the record of the public hearing, if held. Where the Approval Authority makes a determination to deny the request, the Approval Authority shall so notify the WWF and each person who has requested individual notice. This notification shall include suggested modifications and the Approval Authority may allow the requestor additional time to bring the Submission into compliance with applicable requirements.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Paragraph (4) of Rule 0400-40-14-.11 Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits is amended by deleting it in its entirety and substituting instead the following:

- (4) EPA objection to Director's decision. No WWF pretreatment program or authorization to grant removal allowances shall be approved by the Director if following the ~~30-day~~ 30-day (or extended) evaluation period provided for in part (2)(a)2 of this rule and any hearing held pursuant to subparagraph (2)(b) of this rule the Regional Administrator sets forth in writing objections to the approval of such Submission and the reasons for such objections. A copy of the Regional Administrator's objections shall be provided to the applicant, and each person who has requested individual notice. The Regional Administrator shall provide an opportunity for written comments and may convene a public hearing on his or her objections. Unless retracted, the Regional Administrator's objections shall constitute a final ruling to deny approval of a WWF pretreatment program or authorization to grant removal allowances 90 days after the date the objections are issued.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

The current title of Rule 0400-40-14-.12 Reporting Requirements for WWF's and Industrial Users is amended by deleting it in its entirety and substituting instead the following title:

0400-40-14-.12 Reporting Requirements for ~~WWF's~~ WWFs and Industrial Users

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (e) of paragraph (2) of Rule 0400-40-14-.12 Reporting Requirements of WWFs and Industrial Users is amended by deleting it in its entirety and substituting instead the following:

1. The ~~user~~ User shall identify the Pretreatment Standards applicable to each regulated process;

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (5) of Rule 0400-40-14-.12 Reporting Requirements of WWFs and Industrial Users is amended by deleting it in its entirety and substituting instead the following:

- (a) Any Industrial User subject to a categorical Pretreatment Standard ~~{except a non-significant categorical industrial user as defined in subparagraph (b) in the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03}~~, after the compliance date of such Pretreatment Standard, or, in the case of a ~~New Source~~ new source, after commencement of the discharge into the WWF, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subparagraph (2)(d) of this rule except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Paragraph (9) of Rule 0400-40-14-.12 Reporting Requirements of WWFs and Industrial Users is amended by deleting it in its entirety and substituting instead the following:

- (9) Semiannual WWF reports.

WWFs with approved Pretreatment Programs shall provide the Approval Authority with a report that briefly describes the WWF's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The reporting periods shall end on the last day of the months of March and September. The report shall be submitted to the Division no later than the ~~28th~~ twenty-eighth day of the month following each reporting period. A WWF may request approval from the ~~Division~~ Division to submit reports annually in lieu of semiannual reports. The request should be made in writing to the pretreatment coordinator during the NPDES permit renewal process. Only WWF Pretreatment Programs that have successfully implemented their program and submitted acceptable semiannual reports for three years or more will be allowed to submit annual reports in lieu of semiannual reports. Annual reporting periods will cover January 1 through December 31 and will be due 45 days after the reporting period ends. Large pretreatment programs (20 SIUs or more, as defined by Chapter 0400-40-11) that are either semiannual or annual reporters shall be granted an additional 15 days to submit reports to the Division.

- (a) Both semiannual and annual reports ~~not submitted electronically~~ shall conform to the format set forth in the State POTW Pretreatment Semiannual Report Package, which includes, at a minimum, the following:

- ~~(a)1.~~ An updated list of the WWF's Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The WWF shall provide

a brief explanation of each deletion. This list shall identify which Industrial Users are subject to categorical pretreatment Standards and specify which Standards are applicable to each Industrial User. The list shall indicate which Industrial Users are subject to local standards that are more stringent than the categorical Pretreatment Standards. The WWF shall also list the Industrial Users that are subject only to local ~~Requirements~~ requirements. The list must also identify Industrial Users subject to categorical Pretreatment Standards that are subject to reduced reporting requirements under subparagraph (5)(c) of this rule, and identify which Industrial Users are Non-Significant Categorical Industrial Users.

- ~~(b)2.~~ A summary of the status of Industrial User compliance over the reporting period;
- ~~(c)3.~~ A summary of compliance and enforcement activities (including inspections) conducted by the WWF during the reporting period;
- ~~(d)4.~~ A summary of changes to the WWF's pretreatment program that have not been previously reported to the Approval Authority; and
- ~~(e)5.~~ Any other relevant information requested by the Approval Authority.

(b) Both semiannual and annual reports submitted electronically must include, at a minimum the applicable required data in appendix A to 40 C.F.R. part 127. The report required by this paragraph must also include a summary of the changes to the WWF's Pretreatment Program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Paragraphs (11) and (12) of Rule 0400-40-14-.12 Reporting Requirements of WWFs and Industrial Users are amended by deleting them in their entirety and substituting instead the following:

(11) Compliance schedule for ~~WWF's~~ WWFs.

The following conditions and reporting requirements shall apply to the compliance schedule for development of an approvable WWF Pretreatment Program required by Rule 0400-40-14-.08.

- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a WWF Pretreatment Program (e.g., acquiring required authorities, developing funding mechanisms, acquiring equipment);
- (b) No increment referred to in subparagraph (11)(a) of this rule shall exceed nine months;
- (c) Not later than 14 days following each date in the schedule and the final date for compliance, the WWF shall submit a progress report to the Approval Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the WWF to return to the schedule established. In no event shall more than nine months elapse between such progress reports to the Approval Authority.

(12) Signatory requirements for industrial user reports.

The reports required by paragraphs (2), (4), and (5) of this rule shall include the certification statement as set forth in part (1)(b)2 of Rule 0400-40-14-.06, and shall be signed as follows:

- (a) By a responsible corporate officer, if the Industrial User submitting the reports required by paragraphs (2), (4), and (5) of this rule is a corporation. For the purpose of this paragraph, a responsible corporate officer means
 - 1. ~~a~~ A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other ~~person~~ individual who performs similar policy- or decision-making functions for the corporation, or

2. ~~the~~ The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) By a general partner or proprietor if the Industrial User submitting the reports required by paragraphs (2), (4), and (5) of this rule is a partnership or sole proprietorship respectively.
 - (c) By a duly authorized representative of the individual designated in subparagraphs (a) or (b) of this paragraph if:
 1. The authorization is made in writing by the individual described in subparagraph (a) or (b) of this paragraph;
 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the ~~Industrial industrial~~ discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 3. ~~the~~ The written authorization is submitted to the Control Authority.
 - (d) If an authorization under subparagraph (12)(c) of this rule is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subparagraph (12)(c) of this rule must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Paragraph (17) of Rule 0400-40-14-.12 Reporting Requirements of WWFs and Industrial Users is amended by deleting it in its entirety and substituting instead the following:

- (17) Annual certification by Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User pursuant to subparagraph (b) in the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03 must annually submit the following certification statement, signed in accordance with the signatory requirements in paragraph (12) of this rule. This certification must accompany an alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 ~~CFR~~ C.F.R. _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

- (a) The facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User as described in subparagraph (b) in the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03;
- (b) ~~the~~ The facility ~~complied~~ complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- (c) ~~the~~ The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Rule 0400-40-14-.18 Modification of WWF Pretreatment Programs is amended by moving the appendices that follow paragraph (5) into a new rule. As amended Rule 0400-40-14-.18 shall read as follows:

0400-40-14-.18 Modification of WWF Pretreatment Programs.

(1) General.

Either the Approval Authority or a WWF with an approved WWF Pretreatment Program may initiate program modification at any time to reflect changing conditions at the WWF. Program modification is necessary whenever there is a significant change in the operation of a WWF Pretreatment Program that differs from the information in the WWF's submission, as approved under Rule 0400-40-14-.11.

(2) Substantial modifications defined. Substantial modifications include:

- (a) Modifications that relax WWF legal authorities (as described in subparagraph (6)(a) of Rule 0400-40-14-.08), except for modifications that directly reflect a revision to this chapter or to 40 ~~CFR~~ C.F.R. chapter I, subchapter N, and are reported pursuant to paragraph (4) of this rule;
- (b) 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, which are reported pursuant to paragraph (4) of this rule. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a WWF (or a subgroup of Industrial Users identified by the WWF) may discharge pursuant to limits developed under paragraph (3) of Rule 0400-40-14-.05;
- (c) Changes to the WWF's control mechanism, as described in part (6)(a)3 of Rule 0400-40-14-.08;
- (d) A decrease in the frequency of self-monitoring or reporting required of industrial users;
- (e) A decrease in the frequency of industrial user inspections or sampling by the WWF;
- (f) Changes to the WWF's confidentiality procedures; and
- (g) Other modifications designated as substantial modifications by the Approval Authority on the basis that the modification could have a significant impact on the operation of the WWF's Pretreatment Program; could result in an increase in pollutant loadings at the WWF; or could result in less stringent requirements being imposed on Industrial Users of the WWF.

(3) Approval procedures for substantial modifications.

- (a) The WWF shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description (see paragraph (2) of Rule 0400-40-14-.09), or such other documents the Approval Authority determines to be necessary under the circumstances.
- (b) The Approval Authority shall approve or disapprove the modification based on the requirements of paragraph (6) of Rule 0400-40-14-.08 and using the procedures in paragraphs (2) through (6) of Rule 0400-40-14-.11, except as provided in subparagraphs (c) and (d) of this paragraph. The modification shall become effective upon approval by the Approval Authority.
- (c) The Approval Authority need not publish a notice of decision under paragraph (5) of Rule 0400-40-14-.11 provided: the notice of request for approval under subparagraph (2)(a) of Rule 0400-40-14-.11 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.
- (d) Notices required by Rule 0400-40-14-.11 may be performed by the WWF provided that the

Approval Authority finds that the WWF notice otherwise satisfies the requirements of Rule 0400-40-14-.11.

- (4) Approval procedures for non-substantial modifications.
 - (a) The WWF shall notify the Approval Authority of any non-substantial modification at least 45 days prior to implementation by the WWF, in a statement similar to that provided for in subparagraph (3)(a) of this rule.
 - (b) Within 45 days after the submission of the WWF's statement, the Approval Authority shall notify the WWF of its decision to approve or disapprove the non-substantial modification.
 - (c) If the Approval Authority does not notify the WWF within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under subparagraph (2)(g) of this rule, the WWF may implement the modification.
- (5) Incorporation in permit.

All modifications shall be incorporated into the WWF's NPDES permit upon approval. The permit will be modified to incorporate the approved modification in accordance with 40 ~~CFR C.F.R.~~ § 122.63(g).

~~Appendices A-C [Reserved]~~

~~Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.~~

~~Appendix D — Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula~~

- ~~(1) — The following industrial subcategories are considered to have dilute waste streams for purposes of the combined wastestream formula. They either were or could have been excluded from categorical pretreatment standards pursuant to paragraph 8 of the Natural Resources Defense Council, Inc., et al. v. Costle Consent Decree for one or more of the following four reasons:~~
 - ~~(a) — The pollutants of concern are not detectable in the effluent from the industrial user (paragraph 8(a)(iii));~~
 - ~~(b) — the pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph 8(a)(iii));~~
 - ~~(c) — the pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph 8(a)(iii)); or~~
 - ~~(d) — the wastestream contains only pollutants which are compatible with the WWF (paragraph 8(b)(i)). In some instances, different rationales were given for exclusion under paragraph 8.~~

~~However, EPA has reviewed these subcategories and has determined that exclusion could have occurred due to one of the four reasons listed above. This list is complete as of October 9, 1986. It will be updated periodically for the convenience of the reader.~~

~~Auto and Other Laundries (40 CFR Part 444)
Carpet and Upholstery Cleaning
Coin-Operated Laundries and Dry-Cleaning
Diaper Services
Dry-Cleaning Plants except Rug-Cleaning
Industrial Laundries
Laundry and Garment Services, Not Elsewhere Classified
Linen Supply
Power Laundries, Family and Commercial~~

~~Electrical and Electronic Components¹ (40 CFR Part 469)
Capacitors (Fluid-Fill)~~

- Carbon and Graphite Products
- Dry Transformers
- Ferrite Electronic Devices
- Fixed Capacitors
- Fluorescent Lamps
- Fuel Cells
- Incandescent Lamps
- Magnetic Coatings
- Mica Paper Dielectric
- Motors, Generators, Alternators
- Receiving and Transmitting Tubes
- Resistance Heaters
- Resistors
- Switchgear
- Transformer (Fluid-Fill)

~~Metal Molding and Casting (40 CFR Part 464)~~

- ~~Nickel Casting~~
- ~~Tin Casting~~
- ~~Titanium Casting~~

~~Gum and Wood Chemicals (40 CFR Part 454)~~

- ~~Char and Charcoal Briquets~~

~~Inorganic Chemicals Manufacturing (40 CFR Part 415)~~

- ~~Ammonium Chloride~~
- ~~Ammonium Hydroxide~~
- ~~Barium Carbonate~~
- ~~Calcium Carbonate~~
- ~~Carbon Dioxide~~
- ~~Carbon Monoxide and Byproduct Hydrogen~~
- ~~Hydrochloric Acid~~
- ~~Hydrogen Peroxide (Organic Process)~~
- ~~Nitric Acid~~
- ~~Oxygen and Nitrogen~~
- ~~Potassium Iodide~~
- ~~Sodium Chloride (Brine Mining Process)~~
- ~~Sodium Hydrosulfide~~
- ~~Sodium Hydrosulfite~~
- ~~Sodium Metal~~
- ~~Sodium Silicate~~
- ~~Sodium Thiosulfate~~
- ~~Sulfur Dioxide~~
- ~~Sulfuric Acid~~

~~Leather (40 CFR Part 425)~~

- ~~Gloves~~
- ~~Luggage~~

~~Paving and Roofing (40 CFR Part 443)~~

- ~~Asphalt Concrete~~
- ~~Asphalt Emulsion~~
- ~~Linoleum~~
- ~~Printed Asphalt Felt~~
- ~~Roofing~~

~~Pulp, Paper, and Paperboard, and Builders' Paper and Board Mills (40 CFR Parts 430 and 431)~~

- ~~Groundwood-Chemi-Mechanical~~

~~Rubber Manufacturing (40 CFR Part 428)~~

- ~~Tire and Inner Tube Plants~~

~~Emulsion-Crumb-Rubber
Solution-Crumb-Rubber
Latex-Rubber
Small-sized-General-Molded, Extruded and Fabricated Rubber Plants,²
Medium-sized-General-Molded, Extruded and Fabricated Rubber Plants,²
Large-sized-General-Molded, Extruded and Fabricated Rubber Plants,²
Wet-Digestion-Reclaimed-Rubber
Pan, Dry-Digestion, and Mechanical Reclaimed Rubber
Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber³
Latex-Foam⁴~~

~~Soap and Detergent Manufacturing (40 CFR Part 417)~~

~~Soap Manufacture by Batch Kettle
Fatty Acid Manufacture by Fat Splitting
Soap Manufacture by Fatty Acid
Neutralization
Glycerine Concentration
Glycerine Distillation
Manufacture of Soap Flakes and Powders
Manufacture of Bar Soaps
Manufacture of Liquid Soaps
Manufacture of Spray Dried Detergents
Manufacture of Liquid Detergents
Manufacture of Dry Blended Detergents
Manufacture of Drum Dried Detergents
Manufacture of Detergent Bars and Cakes~~

~~Textile Mills (40 CFR Part 410)~~

~~Apparel manufacturing
Cordage and Twine
Padding and Upholstery Filling~~

~~Timber Products Processing (40 CFR Part 429)~~

~~Barking Process
Finishing Processes
Hardboard—Dry Process~~

~~¹Footnote: The Paragraph 8 exemption for the manufacture of products in the Electrical and Electronic Components Category is for operations not covered by Electroplating/Metal Finishing pretreatment regulations (40 CFR Parts 413/433).~~

~~²Footnote: Except for production attributed to lead-sheathed hose manufacturing operations.~~

~~³Footnote: Except for production attributed to chromic acid form-cleaning operations.~~

~~⁴Footnote: Except for production that generates zinc as a pollutant in discharge.~~

~~Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.~~

~~Appendix E—Sampling Procedures~~

~~(1)—Composite Method~~

~~(a)—It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.~~

~~(b)—Effluent sample collection need not be delayed to compensate for hydraulic detention unless the WWF elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample is~~

~~taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual WWF operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.~~

~~(2) — Grab Method~~

~~If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.~~

~~Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.~~

~~Appendix F — [Reserved]~~

~~Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.~~

~~Appendix G — Pollutants Eligible for a Removal Credit~~

~~I. — Regulated Pollutants in Part 503 Eligible for a Removal Credit~~

Pollutants	Use or disposal practice		
	LA	SD	†
Arsenic	X	X	X
Beryllium			X
Cadmium	X		X
Chromium		X	X
Copper	X		
Lead	X		X
Mercury	X		X
Molybdenum	X		
Nickel	X	X	X
Selenium	X		
Zinc	X		
Total Hydrocarbons			—X\1\

~~Key:~~

~~LA—land application.~~

~~SD—surface disposal site without a liner and leachate collection system.~~

~~†—firing of sewage sludge in a sewage sludge incinerator.~~

~~\1\ The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons (or carbon monoxide) in subpart E in 40 CFR Part 503 are met when sewage sludge is fired in a sewage sludge incinerator: Acrylonitrile, Aldrin/Dieldrin(total), Benzene, Benzidine, Benzo(a)pyrene, Bis(2-chloroethyl)ether, Bis(2-ethylhexyl)phthalate, Bromodichloromethane, Bromoethane, Bromoform, Carbon tetrachloride, Chlordane, Chloroform, Chloromethane, DDD,DDE,DDT, Dibromochloromethane, Dibutyl phthalate, 1,2-dichloroethane, 1,1-dichloroethylene, 2,4-dichlorophenol, 1,3-dichloropropene, Diethyl phthalate, 2,4-dinitrophenol, 1,2-diphenylhydrazine, Di-n-butyl phthalate, Endosulfan, Endrin, Ethylbenzene, Heptachlor, Heptachlor epoxide, Hexachlorobutadiene, Alpha-hexachlorocyclohexane, Beta-~~

hexachlorocyclohexane, Hexachlorocyclopentadiene, Hexachloroethane, Hydrogen cyanide, Isophorone, Lindane, Methylene chloride, Nitrobenzene, N-Nitrosodimethylamine, N-Nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1,1,2,2-tetrachloroethane, Tetrachloroethylene, Toluene, Toxaphene, Trichloroethylene, 1,2,4-Trichlorobenzene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, and 2,4,6-Trichlorophenol.

II. Additional Pollutants Eligible for a Removal Credit
[Milligrams per kilogram_dry weight basis]

Pollutant	Use or disposal practice			†
	LA	Surface disposal		
		Unlined 11	Lined 12	
Arsenic			131-100	
Aldrin/Dieldrin (Total)	2.7			
Benzene	131-16	140	3400	
Benzo(a)pyrene	15	131-100	131-100	
Bis(2-ethylhexyl)phthalate		131-100	131-100	
Cadmium		131-100	131-100	
Chlordane	86	131-100	131-100	
Chromium (total)	131-100		131-100	
Copper		131-46	100	1400
DDD, DDE, DDT (Total)	1.2	2000	2000	
2,4-Dichlorophenoxy-acetic acid		7	7	
Fluoride	730			
Heptachlor	7.4			
Hexachlorobenzene	29			
Hexachlorobutadiene	600			
Iron	131-78			
Lead		131-100	131-100	
Lindane	84	131-28	131-28	
Malathion		0.63	0.63	
Mercury		131-100	131-100	
Molybdenum		40	40	
Nickel			131-100	
N-Nitrosodimethylamine	2.1	0.088	1.088	
Pentachlorophenol	30			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10	131-26	131-26	
Trichloroethylene	131-10	9500	131-10	
Zinc		4500	4500	450

11 Active sewage sludge unit without a liner and leachate collection system.

12 Active sewage sludge unit with a liner and leachate collection system.

13 Value expressed in grams per kilogram_dry weight basis.

Key: LA land application.

† incineration.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

0400-40-14-.19 Appendices to Chapter 0400-40-14

Appendices A–C [Reserved]

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Appendix D Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula

- (1) The following industrial subcategories are considered to have dilute ~~waste streams~~ wastestreams for purposes of the combined wastestream formula. They either were or could have been excluded from categorical pretreatment standards pursuant to paragraph 8 of the Natural Resources Defense Council, Inc., et al. v. Costle Consent Decree for one or more of the following four reasons:
- (a) The pollutants of concern are not detectable in the effluent from the industrial user (paragraph 8(a)(iii));
 - (b) ~~the~~ The pollutants of concern are present only in trace amounts and are neither causing nor likely to cause toxic effects (paragraph 8(a)(iii));
 - (c) ~~the~~ The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to the Administrator (paragraph 8(a)(iii)); or
 - (d) ~~the~~ The wastestream contains only pollutants ~~which that~~ are compatible with the WWF (paragraph 8(b)(i)). In some instances, different rationales were given for exclusion under paragraph 8.

However, EPA has reviewed these subcategories and has determined that exclusion could have occurred due to one of the four reasons listed above. This list is complete as of October 9, 1986. It will be updated periodically for the convenience of the reader.

Auto and Other Laundries (40 ~~CFR~~ C.F.R. Part 444)

- Carpet and Upholstery Cleaning
- Coin-Operated Laundries and Dry Cleaning
- Diaper Services
- Dry Cleaning Plants except Rug Cleaning
- Industrial Laundries
- Laundry and Garment Services, Not Elsewhere Classified
- Linen Supply
- Power Laundries, Family and Commercial

Electrical and Electronic Components ¹ (40 ~~CFR~~ C.F.R. Part 469)

- Capacitors (Fluid Fill)
- Carbon and Graphite Products
- Dry Transformers
- Ferrite Electronic Devices
- Fixed Capacitors
- Fluorescent Lamps
- Fuel Cells
- Incandescent Lamps
- Magnetic Coatings
- Mica Paper Dielectric
- Motors, Generators, Alternators
- Receiving and Transmitting Tubes
- Resistance Heaters
- Resistors
- ~~Switchgear~~ Switchgear
- Transformer (Fluid Fill)

Metal Molding and Casting (40 ~~CFR~~ C.F.R. Part 464)

Nickel Casting
Tin Casting
Titanium Casting

Gum and Wood Chemicals (40 [CFR C.F.R.](#) Part 454)
Char and Charcoal Briquets

Inorganic Chemicals Manufacturing (40 [CFR C.F.R.](#) Part 415)

Ammonium Chloride
Ammonium Hydroxide
Barium Carbonate
Calcium Carbonate
Carbon Dioxide
Carbon Monoxide and Byproduct Hydrogen
Hydrochloric Acid
Hydrogen Peroxide (Organic Process)
Nitric Acid
Oxygen and Nitrogen
Potassium Iodide
Sodium Chloride (Brine Mining Process)
Sodium Hydrosulfide
Sodium Hydrosulfite
Sodium Metal
Sodium Silicate
Sodium Thiosulfate
Sulfur Dioxide
Sulfuric Acid

Leather (40 [CFR C.F.R.](#) Part 425)

Gloves
Luggage

Paving and Roofing (40 [CFR C.F.R.](#) Part 443)

Asphalt Concrete
Asphalt Emulsion
Linoleum
Printed Asphalt Felt
Roofing

Pulp, Paper, and Paperboard, and Builders' Paper and Board Mills (40 [CFR C.F.R.](#) Parts 430 and 431)
Groundwood-Chemi-Mechanical

Rubber Manufacturing (40 [CFR C.F.R.](#) Part 428)

Tire and Inner Tube Plants
Emulsion Crumb Rubber
Solution Crumb Rubber
Latex Rubber
Small-sized General Molded, Extruded and Fabricated Rubber Plants, ²
~~Medium-sized~~ [Medium-sized](#) General Molded, Extruded and Fabricated Rubber Plants ²
Large-sized General Molded, Extruded and Fabricated Rubber Plants ²
Wet Digestion Reclaimed Rubber
Pan, Dry Digestion, and Mechanical Reclaimed Rubber
Latex Dipped, Latex-Extruded, and Latex-Molded Rubber ³
Latex Foam ⁴

Soap and Detergent Manufacturing (40 [CFR C.F.R.](#) Part 417)

Soap Manufacture by Batch Kettle
Fatty Acid Manufacture by Fat Splitting
Soap Manufacture by Fatty Acid
Neutralization
Glycerine Concentration

Glycerine Distillation
Manufacture of Soap Flakes and Powders
Manufacture of Bar Soaps
Manufacture of Liquid Soaps
Manufacture of Spray Dried Detergents
Manufacture of Liquid Detergents
Manufacture of Dry Blended Detergents
Manufacture of Drum Dried Detergents
Manufacture of Detergent Bars and Cakes

Textile Mills (40 [CFR C.F.R.](#) Part 410)

Apparel manufacturing
Cordage and Twine
Padding and Upholstery Filling

Timber Products Processing (40 [CFR C.F.R.](#) Part 429)

Barking Process
Finishing Processes
Hardboard—Dry Process

¹Footnote: The Paragraph 8 exemption for the manufacture of products in the Electrical and Electronic Components Category is for operations not covered by Electroplating/Metal Finishing pretreatment regulations (40 [CFR C.F.R.](#) Parts 413/433).

²Footnote: Except for production attributed to lead-sheathed hose manufacturing operations.

³Footnote: Except for production attributed to chromic acid form-cleaning operations.

⁴Footnote: Except for production that generates zinc as a pollutant in discharge.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Appendix E Sampling Procedures

(1) Composite Method

- (a) It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.
- (b) Effluent sample collection need not be delayed to compensate for hydraulic detention unless the WWF elects to include detention time compensation or unless the Approval Authority requires detention time compensation. The Approval Authority may require that each effluent sample is taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual WWF operation. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based on the average of the daily flows during the same month of the previous year.

(2) Grab Method

If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Appendix F [Reserved]

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Appendix G Pollutants Eligible for a Removal Credit

I. Regulated Pollutants in Part 503 Eligible for a Removal Credit

Pollutants	Use or disposal practice		
	LA	SD	I
Arsenic	X	X	X
Beryllium			X
Cadmium	X		X
Chromium		X	X
Copper	X		
Lead	X		X
Mercury	X		X
Molybdenum	X		
Nickel	X	X	X
Selenium	X		
Zinc	X		
Total Hydrocarbons			X \1\

Key:

LA-land application.

SD-surface disposal site without a liner and leachate collection system.

I-firing of sewage sludge in a sewage sludge incinerator.

\1\ The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons (or carbon monoxide) in subpart E in 40 **CFR C.F.R.** Part 503 are met when sewage sludge is fired in a sewage sludge incinerator: Acrylonitrile, Aldrin/Dieldrin(total), Benzene, Benzidine, Benzo(a)pyrene, Bis(2-chloroethyl)ether, Bis(2-ethylhexyl)phthalate, Bromodichloromethane, Bromoethane, Bromoform, Carbon tetrachloride, Chlordane, Chloroform, Chloromethane, DDD,DDE,DDT, Dibromochloromethane, Dibutyl phthalate, 1,2-dichloroethane, 1,1-dichloroethylene, 2,4-dichlorophenol, 1,3-dichloropropene, Diethyl phthalate, 2,4-dinitrophenol, 1,2- diphenylhydrazine, Di-n-butyl phthalate, Endosulfan, Endrin, Ethylbenzene, Heptachlor, Heptachlor epoxide, Hexachlorobutadiene, Alpha-hexachlorocyclohexane, Beta-hexachlorocyclohexane, Hexachlorocyclopentadiene, Hexachloroethane, Hydrogen cyanide, Isophorone, Lindane, Methylene chloride, Nitrobenzene, N- Nitrosodimethylamine, N- Nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1,1,2,2,-tetrachloroethane, Tetrachloroethylene, Toluene, Toxaphene, Trichloroethylene, 1,2,4-Trichlorobenzene, 1,1,1-Trichloroethane, 1,1,2-Trichloroethane, and 2,4,6-Trichlorophenol.

II. Additional Pollutants Eligible for a Removal Credit

[Milligrams per **kilogram_dry kilogram-dry** weight basis]

Pollutant	Use or disposal practice		
	LA	Surface disposal	I

		Unlined \1\	Lined \2\	
Arsenic			\3\ 100	
Aldrin/Dieldrin (Total)	2.7			
Benzene	\3\ 16	140	3400	
Benzo(a)pyrene	15	\3\ 100	\3\ 100	
Bis(2-ethylhexyl)phthalate		\3\ 100	\3\ 100	
Cadmium		\3\ 100	\3\ 100	
Chlordane	86	\3\ 100	\3\ 100	
Chromium (total)	\3\ 100		\3\ 100	
Copper		\3\ 46	100	1400
DDD, DDE, DDT (Total)	1.2	2000	2000	
2,4 Dichlorophenoxy-acetic acid		7	7	
Fluoride	730			
Heptachlor	7.4			
Hexachlorobenzene	29			
Hexachlorobutadiene	600			
Iron	\3\ 78			
Lead		\3\ 100	\3\ 100	
Lindane	84	\3\ 28	\3\ 28	
Malathion		0.63	0.63	
Mercury		\3\ 100	\3\ 100	
Molybdenum		40	40	
Nickel			\3\ 100	
N-Nitrosodimethylamine	2.1	0.088	1.088	
Pentachlorophenol	30			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10	\3\ 26	\3\ 26	
Trichloroethylene	\3\ 10	9500	\3\ 10	
Zinc		4500	4500	450

1\ Active sewage sludge unit without a liner and leachate collection system.

\2\ Active sewage sludge unit with a liner and leachate collection system.

\3\ Value expressed in grams per ~~kilogram~~_{dry} ~~kilogram~~_{dry} weight basis.

Key: ~~LA-land~~ LA-land application.

~~I-incineration~~ I-incineration.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Dr. Gary G. Bible (Oil and Gas Industry)					
Elaine Boyd (Commissioner's Designee, Department of Environment and Conservation)					
James W. Cameron III (Small Generator of Water Pollution representing Automotive Interests)					
Mayor Kevin C. Davis (Counties)					
Dodd Galbreath (Environmental Interests)					
Brent Galloway Oil or Gas Property Owner					
Charlie R. Johnson (Public-at-large)					
Judy Manners (Commissioner's Designee, Department of Health)					
Sam Marshall (Commissioner's Designee, Department of Agriculture)					
Frank McGinley (Agricultural Interests)					
Neal Whitten (Manufacturing Industry)					
Terry Wimberley (Municipalities)					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Water Quality, Oil, and Gas on _____ (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/28//2021

Rulemaking Hearing(s) Conducted on: (add more dates). 07/22/2021

Date: _____

Signature: _____

Name of Officer: _____

Title of Officer: _____

Agency/Board/Commission: Board of Water Quality, Oil, and Gas

Rule Chapter Number(s): Chapter 0400-40-14

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

1. Comment: A commentator noted the incorrect use of the term “Appendixes” in the title of Rule 0400-40-14-.19 and suggested replacing the term with “Appendices.” The commentator also noted the reference to “appendix A” in Rule 0400-40-14-.12(9)(b) should be capitalized to read “Appendix A.”

Response: The board has corrected these typographical errors.

2. Comment: A commentator noted that replacing the term “POTW” with “WWF” in part (7)(b)2 of Rule 0400-40-14-.07 should not be done as this part of the Tennessee rules references federal categorical pretreatment standards and the language must remain consistent with federal regulations.

Response: The board agrees and chose not to replace “POTW” with “WWF” in part (7)(b)2 of Rule 0400-40-14-.07.

3. Comment: A commentator stated that it was unclear what reports are required to be submitted electronically and the date such requirement will become mandatory for reports associated with a municipality that has an approved pretreatment program. The commentator stated that proposed subparagraph (3)(b) of Rule 0400-40-14-.01 should be clarified to reflect that municipalities with approved programs are not required to impose electronic reporting upon industrial or other users. The commentator also stated that the proposed rule should be clarified as to when electronic reporting will be imposed upon municipalities with approved programs.

Response: The revisions to subparagraphs (3)(a) and (b) of Rule 0400-40-14-.01 require the submission of forms “developed by the Commissioner” for making reports and submitting monitoring results. This requirement only applies to reports developed by the Commissioner and made available by the Department to control authorities (including municipalities). The language does not require industrial users to report electronically to control authorities.

The electronic reporting revisions purposefully did not include a specific date for mandatory electronic submittal of reports in order to allow flexibility during the onboarding process of the regulated community.

4. Comment: A commentator stated “the imposition of electronic reporting by industrial users in a municipality with an approved pretreatment program should be subject to the discretion of that municipality to be imposed on a case-by-case basis as the municipality deems appropriate.

Response: The proposed rule does not implement electronic reporting requirements on the industrial users in municipalities with approved pretreatment programs. Control authorities continue to have the flexibility to implement electronic reporting of its industrial user reports in a manner it deems appropriate.

5. Comment: One commentor asserts that the Department requiring electronic submittal of reports prior to the December 21, 2025, federal deadline constitutes an alternative schedule which would require approval from EPA in accordance with 40 C.F.R. § 127.27(e).

Response: 40 C.F.R. § 127.27(e) states “a State may request to establish an alternative compliance deadline for up to three years beyond the currently applicable date but not beyond December 21, 2028.” The alternative compliance deadline was established to allow additional time beyond the December 21, 2025, implementation date. 40 C.F.R. § 127.16(a) allows for implementation prior to December 21, 2025.

6. Comment: The rule cannot appropriately require electronic reporting before a municipality’s NPDES Permit is reissued imposing such standard (and the appropriate timeframe to comply).

Response: The rule applies to permittees when it is incorporated into their permit. Tennessee Code Annotated section 69-3-108(v) provides that compliance with a NPDES permit is deemed compliance with the

Water Quality Control Act and its rules. However, the board encourages permittees to voluntarily comply with the rule upon its effective date rather than wait for a permit renewal.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The proposed rule amendment should not affect small businesses. The rule changes allow for electronic reporting of pretreatment annual and semi-annual reports by municipalities and utility boards that implement approved pretreatment programs ("Control Authorities"). Some Control Authorities employ the services of consulting firms to assist with the annual and semi-annual reports. If anything, the changes will be more cost effective for all parties involved as they will not have to rely on paying for certified mail to submit the reports.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The proposed rule changes do not add any additional reporting or recordkeeping requirements to any Control Authority with a pretreatment program. The Control Authorities are already filling out the reports either annually or semi-annually. The rule amendment will allow for these to be submitted electronically. There is no cost associated with creating an account on the website associated with submitting the report.

- (3) A statement of the probable effect on impacted small businesses and consumers.

This rule will not directly impact small businesses. The regulated entities impacted by this rule are municipal governments. Thus, private businesses will not be impacted by this rule or any electronic reporting requirements. The proposed rule amendment is not anticipated to have a probable impact on small businesses or consumers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Board believes there is not another alternative for achieving the goals of these amendments. This is a federal rule that must be implemented in order to maintain grant funding for the state's Authorized NPDES Program and the other amendments made in the rule are purely clerical in nature.

- (5) A comparison of the proposed rule with any federal or state counterparts.

This rule will be consistent with other delegated states' rules and regulations, as this rule is a federal requirement. The Board does not expect the rule to affect economic activity.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Small businesses are not subject to the requirements contained in the proposed rule.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits for the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments." The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The Board does not believe that these amended rules will result in an increase in expenditures or a decrease in revenues.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

In 2015, the Environmental Protection Agency (EPA) promulgated the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which was broken into Phase 1 and Phase 2. Phase 1 has been implemented and Phase 2 originally required some reports, such as pretreatment program reports, to be submitted electronically by December 21, 2020. EPA subsequently extended the Phase 2 deadline to December 21, 2025. The Department of Environment and Conservation ("Department") has already developed electronic reporting capabilities and plans to implement Phase 2 electronic reporting for pretreatment prior to the EPA deadline. This rulemaking is required to implement that Phase 2 reporting by authorizing those electronic reports be made to the Department and is intended to make clerical amendments to the rules.

In Tennessee, there are more than 100 municipalities and utilities that have approved pretreatment programs. Currently, state rules require hard copies of pretreatment program reports. The Pretreatment Requirements in Chapter 0400-40-14 are being revised to include requirements for electronic reporting in accordance with 40 C.F.R. Part 127 and 40 C.F.R. Part 403. The proposed rule requires regulated entities to report information electronically, instead of filing written paper reports. This is being done so that programs do not have to submit both electronic reports to EPA and written reports to the State.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The rule will be required to comply with the federal electronic reporting rule in 40 C.F.R. § 127. Section 106 of the Clean Water Act (33 U.S.C. § 1256) allows EPA to aid states in establishing and implementing ongoing water pollution control programs. This aid comes in the form of a 106 Grant (Performance Partnership Grant). To continue receiving assistance and to meet the cooperative agreements of the grant, states must implement required programs like those contemplated in 40 C.F.R. § 127.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The proposed rulemaking will affect municipalities and utilities responsible for administering pretreatment programs. We expect little opposition, as most municipalities are currently reporting electronically under Phase 1 of the Electronic Reporting Rule in 40 C.F.R. § 127 and also additional electronic reporting under Phase 2 should not be problematic. Only three electronic reporting waivers were granted during Phase 1, none of which were to municipalities.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Board is not aware of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule revision does not include any new fees and does not generate any additional revenue.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Adam Bonomo
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- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton
Legislative Liaison
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 253-5339
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

In 2015, the Environmental Protection Agency (EPA) promulgated the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule, which was broken into Phase 1 and Phase 2. Phase 1 has been implemented and Phase 2 originally required some reports, such as pretreatment program reports, to be submitted electronically by December 21, 2020. EPA subsequently extended the Phase 2 deadline to December 21, 2025. The Department of Environment and Conservation ("Department") has already developed electronic reporting capabilities and plans to implement Phase 2 electronic reporting for pretreatment prior to the EPA deadline. This rulemaking is required to implement that Phase 2 reporting by authorizing those electronic reports to be made to the Department and is intended to make other clerical amendments to the rules. This rulemaking is being promulgated under the authority of Tennessee Code Annotated Title 69, Chapter 3, Part 1 and will be implemented with existing resources.

- (2) A determination that the action is the least-cost method for achieving the stated purpose.

The Department believes there is not another alternative for achieving the goals of this rulemaking. This rulemaking is based on a federal rule that must be implemented in order to maintain grant funding for the state's Authorized NDPEs Program and the other amendments made in the rule are purely clerical in nature.

- (3) A comparison of the cost-benefit relation of the action to nonaction.

EPA conducted a cost-benefit analysis for the federal rule, which determined that overall costs to NPDES permitting authorities and to permittees would be reduced. Moreover, a significant benefit of the proposed action is to maintain compliance with federal requirements, and thus to maintain the delegation of NPDES permitting authority and funding from EPA to the Department to implement this program.

- (4) A determination that the action represents the most efficient allocation of public and private resources.

Yes, the Board believes that this rule represents the most efficient allocation of resources. This rule revision will benefit the health and safety of the community as well as water quality by allowing faster access to compliance data and less opportunity for transcription errors. The proposed changes are in response to updates to the federal EPA's NPDES Electronic Reporting Rule. EPA anticipates the entire

NPDES Electronic Reporting Rule will save authorized State NPDES programs \$22.6 million and NPDES regulated entities \$500,000 annually with full implementation.

- (5) A determination of the effect of the action on competition.

There will be no impact in the marketplace because of this rulemaking.

- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

The rule should have no impact on rural or urban communities. Facilities located within rural and urban communities are already reporting part of their data electronically as required by Phase 1 of the electronic reporting rule, so those facilities will already have the infrastructure in place to report the additional elements.

- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

It is not anticipated that the action will affect employment.

- (8) The source of revenue to be used for the action.

The action can be accommodated with existing resources.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

The proposed changes to the State Pretreatment Rules are in response to a section of EPA's NPDES Electronic Reporting Rule. EPA anticipates the entire NPDES Electronic Reporting Rule will save authorized State NPDES programs \$22.6 million and NPDES regulated entities \$500,000 annually with full implementation. The Board does not have a specific estimate of saving for the regulated community in Tennessee or for the Department.